

Independent Jersey Care Inquiry

Day 107

November 5, 2015

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1 Thursday, 5 November 2015

2 (10.10 am)

3 THE CHAIR: Good morning, Ms McGahey.

4 MS MCGAHEY: Good morning.

5 THE CHAIR: Good morning, Mr Power.

6 A. Good morning.

7 THE CHAIR: When you are ready.

8 MS MCGAHEY: Thank you.

9 MR GRAHAM POWER (continued)

10 Questions from COUNSEL TO THE INQUIRY (continued)

11 MS MCGAHEY: Mr Power, with when we finished last night

12 I said I was going to turn this morning to

13 Operation Rectangle and the first thing I would like to

14 ask is why was Mr Harper placed in charge of

15 Operation Rectangle?

16 A. I don't think he was initially. I think

17 Alison Fossey -- this is entirely from memory --

18 Alison Fossey was senior investigating officer of

19 a historic child abuse inquiry and at some stage this

20 criminal inquiry began to overlap with professional

21 standards issues. I mean virtually by law the Deputy

22 Chief Officer had the lead on internal inquiries within

23 the Police, that's how it worked, that was a key part of

24 his role, so my recollection is that when Alison began

25 to say "We have taken a statement" or "We have spoken to

1 a witness who says that this was reported to a police
2 officer some time ago who did nothing about it", or "The
3 name of former detective whoever has popped up as
4 a possible suspect in this inquiry", or "We are
5 concerned about leaks from within the organisation that
6 might be getting to suspects", then you had the option,
7 you either ran two simultaneous inquiries with Alison as
8 senior investigating officer into -- and Lenny trying to
9 deal, as he had to, that goes with the rules, with the
10 internal professional standards issues, or you had to
11 say "No, we're going to have to roll these in together"
12 and I think that was behind the decision. Lenny as
13 professional standards head, to then become head of the
14 inquiry with Alison as his deputy, I think that was the
15 chain of reasoning.

16 Q. As Rectangle developed and grew in size -- and we will
17 come back to its beginnings, but sticking with this for
18 the moment -- it became a major investigation, didn't
19 it?

20 A. Yes, it was a big investigation. There has been bigger,
21 but it was a big investigation, no doubt.

22 Q. Requiring skilled detectives to work on it?

23 A. Yes. Yes.

24 Q. Did Mr Harper have the skills as a detective that he
25 needed?

1 A. Well, I think he had long experience as a detective and
2 he had the detective skills which might have been
3 appropriate perhaps to an earlier time. You could argue
4 that his skills and qualifications were no longer
5 current, but he was a skilled investigator. He was
6 supported by people who had been on recent training
7 courses, so I think Alison Fossey had been trained as
8 a senior investigating officer and we brought in
9 a HOLMES team and other supporting staff as per the
10 agreement with Devon and Cornwall. So Lenny didn't have
11 to manage the technicalities of a major inquiry using
12 the HOLMES system because under the agreement we had
13 previously formed, we had got people in straight away
14 that could do that.

15 Q. You told us yesterday that Mr Harper had been described
16 I think by the Metropolitan Police as perhaps one of the
17 best detectives of his generation.

18 A. Yes.

19 Q. How old was that report?

20 A. Well, it was his force before last. He had come to us
21 from Strathclyde and before that he had been in the Met,
22 but during his time in the Met I think he was selected
23 to work on some very difficult terrorist investigations
24 in Northern Ireland and so you have to say that in
25 itself is a testimonial to his abilities. There is no

1 doubt that he was good, but he hadn't been on --
2 the Police Service keeps changing and the course that
3 you went on ten years ago to learn how to run a major
4 inquiry is not the course that you would go on now to do
5 it and quite rightly people became professionally
6 qualified. You came out of training with a piece of
7 paper or certificate saying "You are now qualified to
8 lead a major crime inquiry", well, I don't think he had
9 that piece of paper.

10 Q. Was consideration ever given to John Pearson running the
11 investigation?

12 A. I think John Pearson had gone by then, or I think if
13 John Pearson had still been about there is no doubt he
14 would have had a leading role. In that sense it hit us
15 at the worst possible time because we had had our senior
16 detective in the form of John Pearson who decided he
17 wanted to leave and we had a plan to recruit another
18 senior detective through the process of replacing me and
19 the senior investigating officer, but this sort of fell
20 between the two. So we realised that there needed to be
21 some current senior detective input into it which is why
22 we contacted the relevant authorities in the UK and said
23 "Look, we need experts to come and guide us here.
24 I need someone to do an audit of all of this and tell us
25 whether we're doing it right, whether we're doing it

1 wrong, produce an action plan", that sort of thing.

2 Q. And is that how you got Andy Baker from ACPO?

3 A. We got Andy Baker and a team. I mean I never said at
4 any time "Send me Andy Baker", not that he wasn't
5 completely welcome, but the request was, if you like,
6 a blind request: "Send me experts please", and we got
7 experts. You couldn't -- you got to say who would have
8 been a better qualified expert than Andy Baker? Well,
9 somebody else will have to come up with the name of that
10 person, because I can't think who it would be. He was
11 deputy director of whatever it was then -- is it the
12 Serious Organised Crime Agency I think it was -- with
13 massive experience in complex criminal inquiries, so --

14 Q. Did you deal directly -- I'm sorry to interrupt you.
15 Did you deal directly with him or were his dealings
16 mainly with Mr Harper?

17 A. Well, the system was that he and his team would come and
18 view the investigation, would speak to Lenny Harper,
19 would speak to the team, would look at all the systems
20 we had in place, would come to me then and do a verbal
21 debrief, "Okay, we have taken a look, this is what we
22 have found." It wasn't quite that compartmentalised
23 because I would be on walkabout and I would keep running
24 into Andy and his team and "How is it going?" and that
25 sort of thing and, you know, we would have a chat over

1 a cup of coffee, but at some point he would formally
2 come and see me and say "Most things are right but there
3 are a few things you need to sort out here and here is
4 a report we have done which says what we think is good,
5 what we think needs to be worked on and it's for you,
6 we're back in two weeks."

7 Q. Do you recollect now any major criticisms that were made
8 by Andy Baker and his team of what was going on?

9 A. No, no, they were points of detail and in every case we
10 would produce an action plan, "Here is what the ACPO
11 team are saying, this is who is going to sort it, this
12 is the deadline", all the usual format. I suppose those
13 still exist.

14 Q. Was there any criticism by Mr Baker and his team of the
15 media handling?

16 A. No, I think we all recognised there was a need to scale
17 the media presence down. We had to gradually sort of
18 cut off the feed and we did that and it worked. You
19 also realise that media organisations have budgets,
20 they're not going to stay there forever and we did scale
21 that down, but I -- well, search the reports, but
22 I can't recall anything of substance that he had to say
23 about the media handling.

24 Q. Okay. We will come back to media handling, but I would
25 like now to go back to the beginning of Rectangle.

1 A. Right, yes.

2 Q. If we could have on the screen please {WS000536/41}, you
3 have identified in your witness statement with a number
4 of specific cases that you say led cumulatively to the
5 setting up of Rectangle, and in paragraph 136 you say:

6 " ... one significant factor that re-enforced the
7 need to commence Operation Rectangle was one relating to
8 'perception'. The belief that there had been cases of
9 child abuse which had not been properly addressed and
10 the idea of 'cover-ups' to protect senior figures had
11 been a feature of Island life for some years before
12 I was appointed to the SOJP."

13 What information did you have before Rectangle
14 started about the perception of cover-up?

15 A. Well, it's not very scientific, but you pick up the word
16 on the street and I suppose people in talking about
17 things in general would say that the Victoria College
18 case wasn't dealt with thoroughly and more people should
19 have faced challenge out of that; the case which
20 involved a previous case involving two people at
21 a children's home had not been dealt with effectively
22 and people should have been charged -- people should
23 have faced trial when they didn't; the general talk
24 among police officers that when they had been engaged in
25 this type of investigation they had received little

1 support from line management; but the rumour system
2 generally in the Island was -- there was a background of
3 suspicion. You know, victims were coming forward to
4 Rectangle and saying "Yeah, I'll tell you my story but
5 I have been trying to tell you for 20 years and no one
6 will listen."

7 Q. And you told us yesterday that your view at the time was
8 that you couldn't go backwards, but anything that came
9 to your attention from now on would be properly dealt
10 with?

11 A. Yes. I mean what I -- I included that paragraph to say
12 we didn't start off against a positive climate. If you
13 said "We're going to investigate historic child abuse
14 and bring people to justice" a common reaction might be
15 "Oh, yes, well, we have heard that one before."

16 Q. But gradually you came to be aware of perhaps
17 an emerging pattern, or at least more and more cases and
18 is it right that Alison Fossey began to draw them all
19 together?

20 A. Yes, well, I think the origin of Rectangle, it wasn't
21 top down driven. I don't remember any time among senior
22 management anyone -- until it was forced upon them --
23 saying "Look, there's a pattern of historic abuse
24 reports here, they need to be looked at." It came from
25 the coalface of the Force. It came from everyday

1 working detectives who were saying "There's something
2 here that needs to be looked at, there is a need for
3 a historic abuse investigation in this Island because we
4 are getting a number of similar linked cases, the same
5 names are cropping up in the same places, it is time the
6 bosses did something about this." That's where it came
7 from.

8 Q. And we will come to one source was Peter Hewlett,
9 Sergeant Hewlett, and his report given to DI Bonjour?

10 A. Yes, and I think it is fair to say that Peter was
11 probably articulating not just an individual view, but
12 a view which was emerging from honest, working
13 detectives at the coalface of policing, yes.

14 Q. And as we know, Rectangle started in the middle of 2007.
15 One case that you say was part of the background to it
16 was the Paul Every case.

17 A. Yes.

18 Q. Which arose in 2004/2005.

19 A. Yes.

20 Q. Did you have any direct involvement in that case at the
21 time?

22 A. I didn't have direct involvement in the investigation,
23 but I did find it necessary to speak to a few senior
24 people about it.

25 Q. At the time?

1 A. At the time, yes.

2 Q. Because you said in paragraph 144, if we could go to the
3 next page of your statement please {WS000536/42}, that
4 there was a suspicion that Mr Every had been tipped off,
5 because his computer had been wiped shortly before it
6 was seized?

7 A. Yes, my understanding -- this is again recollection from
8 what I might have been told at the morning briefing
9 that -- do you want me to explain why we were going for
10 Every, in case that's not clear?

11 Q. No, he came to attention through Operation Ore, didn't
12 he?

13 A. Yes, he was provided to us indirectly from authorities
14 in the United States.

15 Q. My particular interest is in asking about the suspicion
16 of a tip-off to him. Was that investigated at the time?

17 A. I think some inquiries were made, but I don't think
18 there was a formal investigation launched. I mean he
19 was -- as I understand it he had technical skills which
20 had enabled him to install evidence elimination software
21 into his computer.

22 Q. And that was already there, wasn't it?

23 A. That was already there, but there had been some
24 additional things done, wiping, the day prior to his
25 arrest. I'm told it was not untypical for him to

1 periodically wipe his computer and the whole thing could
2 have been coincidence but --

3 Q. I think there may be evidence that it was two days
4 before his arrest, or two days before the computer was
5 seized.

6 A. Well, you can have one coincidence too many and it
7 created an uncomfortable feeling. He was a senior
8 person in the public sector, he was well connected, he
9 knew a lot of people on a personal basis. It was
10 a worrying development.

11 Q. In paragraph 145 of your statement over the page please
12 {WS000536/43} you say that there was some initial
13 controversy around this case as the Attorney General's
14 Office had originally come back with a "do not
15 prosecute" instruction.

16 A. Yes.

17 Q. And then that that decision was reversed.

18 A. Yes.

19 Q. I think yesterday you were shown some documents which
20 were disclosed to the parties the day before which show
21 that there was a mix up within the Law Officers'
22 Department and the lawyers believed that the
23 Attorney General had said there should be no
24 prosecution, when he hadn't.

25 A. Well, yes. Confusion was allowed to develop is how

1 I would put it. I'm not very sympathetic about that,
2 but yes it's true. What I wrote there from recollection
3 has turned out to be absolutely true, yes.

4 Q. But the matter was resolved and the Attorney in fact
5 looked at the Police view, the Police view reported to
6 him which was that the SOJP didn't think there was
7 enough evidence to prosecute and he identified charges
8 that he thought could be brought and which were brought,
9 is that right?

10 A. That's the documents I have seen yesterday. I'm
11 surprised that anybody in the Force, given the evidence,
12 thought there wasn't a basis for prosecution. If I was
13 still in Force I would have asked a few more questions
14 about how did that communication actually go to the
15 Attorney General. But that's right, there was confusion
16 and we almost told Every "Well, it's all over you're not
17 going to be prosecuted" after about a year of work and
18 how much expense, and you know, it was important because
19 if vindicated this man could have gone on -- was being
20 starred to go on to hold one of the senior positions in
21 the Island's public sector and so it was important.

22 My personal involvement was to flag up that
23 importance to people. At some stage I spoke to the
24 Attorney General. I certainly repeatedly spoke to the
25 Chief Executive, because I wanted his cooperation.

1 I wanted to say "Look, Bill, if my boys come round and
2 they want to go into his work computer, nobody is going
3 to get in the way, are they?", "No".

4 Q. Did you get that cooperation?

5 A. Yes, he was very good and provided full cooperation.

6 Q. And this was before the decision was made to charge?

7 A. Yes, yes, during the investigation, yes.

8 Q. In paragraph 146 {WS0000536/43} you say that you were
9 told of one other case in which a computer had been
10 wiped shortly before an arrest.

11 A. Yes.

12 Q. Do you remember that other case?

13 A. No. I just remember -- I mean I wrote these things
14 sitting at home in complete isolation without access to
15 any -- if you're in your office you can say "Oh, get me
16 this and get me that", well, there was nobody getting me
17 anything.

18 THE CHAIR: Mr Power, can I make it absolutely clear we
19 understand that and indeed in paragraph 2 of your
20 statement {WS0000536/1} you said:

21 "Unlike some witnesses who will give evidence in
22 a professional capacity, I do not have the benefit of
23 researchers, lawyers and administrative staff. I have
24 recalled all the events as best I can in the
25 circumstances. If there are any mistakes they are

1 honest mistakes."

2 We have read that and understand that.

3 A. Thank you, ma'am.

4 Yes, so I have a recollection that somebody said to
5 me at some stage, at some briefing, "This is not the
6 first time somebody has had the computer wiped the day
7 before we went through the door."

8 MS MCGAHEY: So you now had these two instances.

9 A. I believe so.

10 Q. Was any investigation carried out?

11 A. Again I think some informal investigation but no formal
12 investigation at that time, no. I mean how -- as
13 a police officer you look at the practicalities and
14 think just where do you start with an investigation. If
15 somebody has had a quiet word with somebody how are you
16 ever going to say -- get that. That's the frustration
17 about it. In other cases we did go to enormous lengths
18 and put facilities in place that perhaps helped us learn
19 a bit more about people, but not in these cases, no.

20 Q. Are you talking about covert surveillance?

21 A. Yes, but this is after the event. If you had a suspect
22 then you could, as we sometimes did, set up a case and
23 create the opportunity for someone to leak and see if
24 they did, but this was -- after the event it's very
25 hard.

1 Q. You go on in your witness statement to identify a number
2 of other cases, all of which formed the background to
3 Operation Rectangle.

4 A. Yes.

5 Q. And at paragraph 150 over the page please {WS000536/44}
6 you are dealing there with allegations made against
7 retired Inspector De La Haye.

8 A. Sorry, where is that?

9 THE CHAIR: Just take a moment to read the paragraph so you
10 have it in context.

11 A. Can you give me the number again.

12 MS MCGAHEY: Go to the previous page. The allegation was
13 that somebody who had been accused of an offence had
14 contacted the former inspector, he was by then retired,
15 and might have asked for assistance.

16 A. Yes, a former senior detective, yes. It was during the
17 course of an investigation into the abuse of
18 a sea cadet. One of the suspects -- the phone was
19 interrogated when they were arrested and a text was
20 found between one of the suspects and a retired senior
21 detective which seemed to be asking for advice on
22 the police investigation and expecting to get some
23 advice in return.

24 Q. And you were not involved in that case when it was
25 current, is that right?

1 A. No. I mean it was -- it was part I suppose of business
2 as usual in the Force until this bit was drawn to my
3 attention.

4 Q. Would you have expected that element of the case to be
5 reported to the Chief Officer or the Deputy Chief
6 Officer at the time?

7 A. I expected it to be investigated as a potential criminal
8 offence. It is not the slightest faintest shadow of
9 doubt that that was a matter that required thorough
10 investigation as part of the investigation of the abuse
11 of that sea cadet. And you can only draw negative
12 conclusions about the integrity of people involved at
13 some stage, or supervising that investigation that that
14 was never looked into, but there were good honest people
15 in the Force and somebody, after a passage of time, came
16 to Mr Harper and said "Look, have you seen this and
17 would you believe it, nobody has done a thing about it."

18 Q. You learned about it through a serious case review.

19 A. I learned about the case at a serious case review; I'm
20 not sure whether I learned about the contact with the
21 senior detective before or after that because that's
22 quite separate. I got a copy, as all relevant heads of
23 department did, of the serious case review of that case,
24 yes.

25 Q. And you have said in your witness statement that the

1 review report was not a particularly good one and
2 Senator Syvret was critical of it.

3 A. Senator Syvret was highly critical of it and I can see
4 why he was critical. I mean I haven't seen it in years,
5 but it seemed to me to be superficial and raised
6 questions -- it didn't give you the answers you wanted
7 to know. The fact is that this risk -- as I recall, the
8 risk to this boy was known to the relevant authorities
9 and somehow he went on to be abused. You need I think
10 a lot of paper to explain that away, and I thought it
11 was rather light, the critical case review. I'm not an
12 expert on reviews of that nature, I ought to say, I just
13 looked at it as an investigator and thought "Well, I can
14 think of 20 good questions I could ask about this but
15 don't seem to be answered here", and Senator Syvret, who
16 was Health Minister at the time, was very outspoken
17 about it and very critical of it and I can understand
18 why he was.

19 Q. And he was critical of a number of agencies, including
20 the Police?

21 A. Yes, I got I think quite a hostile letter from him
22 suggesting that we had shared the guilt for the abuse of
23 this boy and asked a number of questions. I answered
24 them as best I could, I answered them straight away.
25 I wrote him a letter I think by return and I also said

1 what he could do if he wasn't satisfied, who he could
2 complain to it and how he could ask someone to
3 scrutinise what we had done in relation to the case.
4 I mean that's what I do: be accountable to a proper
5 elected Minister.

6 Q. Your evidence is that others took a different view and
7 if we could have page 46 please and paragraph 155
8 {WS000536/46}. You say that:

9 "... a plan was formed, apparently in the
10 Chief Minister's Department, to respond to
11 Senator Syvret's questions by removing him from his
12 position ..."

13 You describe how two groups met at the same time,
14 a sub-division of the Corporate Management Board, which
15 you remember?

16 A. Sub-group, yes.

17 Q. And a meeting of the Child Protection Committee.

18 A. Yes.

19 Q. You attended the Corporate Management Board meeting.

20 A. Yes.

21 Q. And Alison Fossey attended the Child Protection
22 Committee meeting and subsequently told you what had
23 happened there, is that right?

24 A. Yes, that's true.

25 Q. And you explain in paragraph 157 {WS000536/46} that

1 after the main business of the Corporate Management
2 Board meeting had been concluded, those representing
3 agencies who dealt with child welfare were asked to stay
4 and they were asked essentially to pass a vote of no
5 confidence in Senator Syvret.

6 A. Yes, I think that's a crisp summary of it. During the
7 full Corporate Management Board meeting the mood was
8 very much "Look at what this horrible man Syvret is
9 saying about us, we need to bring this to an end, we
10 need to sort him out because he's trouble." I didn't
11 like the tone of that, but I thought "Well, just sit the
12 meeting out and go back to your office", but to my
13 surprise at the end of the meeting Bill Ogley said
14 "I would like the following people to remain behind",
15 and he named me and he named other people whose names
16 I give in my statement and we all had responsibility for
17 the agencies who had featured in a serious case review,
18 yes.

19 Q. Can I stop you there. You said at the full meeting
20 there was a hostile response to Senator Syvret.

21 A. Yes.

22 Q. Did anybody raise the possibility that his complaints
23 were well-founded and should be investigated further?

24 A. Well, if it was it would only be me and I think I -- you
25 know, there was a lot of talk about "What are we going

1 to say in response to what he's doing" and I said "Well,
2 don't talk to me about it because I wrote him a letter
3 yesterday", or whatever it is, and I have dealt with --
4 you know, come on, I get letters of complaints all the
5 time, we're a police force. You know, you deal with
6 them, that's what we do. I suppose I had more
7 experience in dealing with complaints and allegations
8 than they had, but, you know, these are senior
9 executives, they ought to be able to handle criticism
10 and I had already done it, but nobody was sympathetic to
11 that view: no, we need to get together and do something
12 about this man.

13 Q. Did anyone at all say "There is an underlying child
14 protection issue here that we need to get to the bottom
15 of"?

16 A. Quite honestly I don't think the interests of vulnerable
17 children got on the radar at all during that discussion.
18 It was about what do we do about Stuart Syvret, it was
19 about how do we protect the reputation of the Island
20 against the things this man is saying. That was the
21 tone.

22 Q. I'm sorry, I interrupted your explanation because you
23 said that then the sub-group met and the intention was,
24 wasn't it, to pass a vote of no confidence that would be
25 of assistance to the Chief Minister in his efforts?

1 A. Yes, the short story -- I'm sorry if I'm complicating
2 it, but we were told by Bill Ogley that the
3 Chief Minister wanted rid of Syvret as Health Minister
4 and that a way to do this was to begin with a vote of no
5 confidence in a Council of Ministers and because it
6 might be contentious the Chief Minister wanted support,
7 he wanted support from us as the head of the relevant
8 agencies, or -- and he also wanted support from the
9 Child Protection Committee and if he had that support he
10 could then go to the meeting of the Council of Ministers
11 and say "Look, I want to do this and I have the support
12 of the key professionals", so whether we -- it's not
13 entirely accurate to nitpick a little bit to say we were
14 asked to put our hands up and vote no confidence in
15 Stuart Syvret, we were asked to say that we did not have
16 confidence and we would support the Chief Minister if he
17 took that view forward to the Council of Ministers.

18 Q. Could you go over the page please to page 47 and
19 paragraph 158 {WS000536/47}. You are talking there
20 about some of the individuals involved and in
21 paragraph 158 you refer to Mr McKeon. It is a minor
22 correction but the Inquiry has been told that in fact
23 Mr McKeon was not a Jerseyman, he hadn't gone through
24 the Jersey education system. Would that be right?

25 A. Yes. Do you know, when I proofread it I thought "Where

1 did I get that from?" and I thought "Well, you must have
2 got it from somewhere", but no, that's just slipped on.
3 Absolutely I'm okay with that. What you have told me is
4 more in accordance with what I recollect now and perhaps
5 I should have challenged that before I signed it off
6 because it was the one thing that stuck in my mind,
7 I thought "I can't remember where I got that from."

8 Q. Thank you, don't worry.

9 You then describe what happened and if we go over
10 the page again please to paragraph 161 {WS000536/48},
11 you then set out what your response was to the request
12 for an indication of no confidence.

13 A. Yes.

14 Q. And you say that you made two points. Firstly, the
15 senator was perfectly entitled to ask difficult
16 questions.

17 A. Yes.

18 Q. And secondly, police and civil servants should not be
19 involved in unseating a minister.

20 A. Yes, when I composed myself I managed -- I was so taken
21 aback I thought "I can't believe I'm listening to this,
22 I'm the chief of police, I'm sitting -- what am I doing
23 here? What am I doing here involved in this lot?". But
24 yes, I said "Look, I'm not having this". It's his job,
25 it's his job to challenge professionals. It doesn't

1 matter if everything he says is wrong, if he says it in
2 the wrong way and there's a perfectly honest
3 explanation, you know, it's part of the dialogue that
4 supports a democratic society. Just because people have
5 votes it doesn't mean it's a democracy, there has to be
6 checks and balances and people, including me, have to be
7 held to account. It is what he is supposed to do, is
8 challenge people in power and say "I want you to explain
9 yourself about your handling of this case."

10 Q. Did anybody at that meeting support your point of view?

11 A. Oh, no, no. He was a nuisance, he was causing them
12 trouble. He was making them justify their actions and
13 account for themselves. They just wanted him gone --
14 they hated him. They hated him.

15 Q. Was that just because of what he had written very
16 recently, or because of a longer history?

17 A. No, in general. It's a longer history. It's a lot of
18 history. I mean Stuart was for a lot of the time
19 a one man party of opposition. I mean he made them
20 work, he challenged them and he was all for transparency
21 and accountability and they were all for secrecy and
22 doing things behind -- this was a massive clash of
23 political attitudes, cultures that was going on here and
24 I wasn't getting involved with this group of individuals
25 who were trying to drag me into it. How dare they. How

1 dare they try and get me into this.

2 Q. You made some notes immediately after the meeting which
3 very helpfully you or somebody else has transcribed. At
4 exhibit GP5 {WD008213/2} we have your handwritten notes
5 which are quite difficult to decipher, but happily we
6 have the transcription at {WD008214/2}.

7 A. Yes. This I think might have been done by my secretary,
8 personal assistant, some time back at the police
9 station.

10 Q. You summarise really what you have told us both today
11 and in your witness statement and then at the bottom you
12 say:

13 "Attempts were made by [Bill Ogley] to draw me into
14 this. I was told that my people were 'part of' the
15 Island's arrangements and I should show collective
16 support by opposing criticisms of the Minister. I was
17 taken aback by this but responded in two ways. Firstly
18 I said that leaving aside issues of style and manner the
19 questions raised by the Minister were valid.
20 Particularly in respect of the time it had taken for the
21 abuse of a boy in a recent case to come to notice of the
22 Police and the apparent failure of Child Protection to
23 give it priority."

24 And you say that the critical case review, must be
25 serious case review:

1 " ... was a poor effort which missed the hard
2 questions and I was not surprised that the Minister was
3 not impressed."

4 You go on then to summarise what you have told us
5 you have said and at the bottom where it says page 57 in
6 the margin:

7 "The fact that 'I will have nothing to do with this'
8 was made clearly. At this [Bill Ogley] said 'In that
9 case goodbye' or something very similar. I picked up my
10 papers. There was no bad feeling or bad words, we just
11 disagreed."

12 Then as soon you were outside you rang
13 Superintendent Shaun Du Val and tipped him off that
14 Alison Fossey might face similar difficulties at her
15 meeting.

16 A. Yes.

17 Q. So your feeling at the time was there were, as you say,
18 no bad words, no bad feelings, there was simply
19 a professional disagreement?

20 A. That is what I wrote in the note. We weren't shouting
21 at each other and there hadn't been many hard words
22 between us. I contained my anger very well, I thought.
23 I was angry about it then and I think I'm angry about it
24 now, but I just said "Don't involve -- this is not
25 appropriate what you're doing anyway and it's certainly

1 not appropriate you're trying to drag me into it. I'm
2 the chief of police, I'm not getting involved in this
3 political stuff at all" and I think if Ogley hadn't come
4 in at that time and said "In that case goodbye then",
5 that conversation might have continued a bit and it
6 might have got a bit more unpleasant, but I think he
7 brought it to an end very quickly. He could see the way
8 I was going and he brought it -- "Yes, you need to go,
9 we will deal with this".

10 Q. And that was done relatively amicably?

11 A. Yes, well, the right words were spoken. I mean I think
12 the non-verbals weren't quite amicable but there were no
13 bad words spoken, but I know how I felt about it and
14 I sensed I knew how he felt about it as well, so that
15 was a bit of a crossroads moment.

16 Q. Could we go back to your witness statement to
17 paragraph 165 {WS000536/49} please.

18 A. Yes.

19 Q. Despite your feeling at the time there were no bad
20 feelings and no bad words you say that following this
21 meeting and your refusal to support Mr Ogley and
22 Frank Walker:

23 "... there was irreparable damage to the
24 relationship between me and senior officials in Jersey,
25 and probably also Frank Walker who will have been told

1 about what happened in the meeting. This was a tipping
2 point. I was not part of the 'inner circle' any more.
3 Senior officials seemed to become more guarded around
4 me ..."

5 And you were more guarded as well.

6 A. That was right. We will all have reflected on it and
7 they will have concluded that I wasn't one of the gang,
8 and that was true, and I had concluded that too much
9 closeness to some of the senior officials would be
10 professionally compromising for me and so I was
11 professional, formal, but I was uncomfortable from that
12 point and I could sense a change in the mood, yes.

13 Q. Was anything overt ever said to you about what had
14 happened at that meeting?

15 A. No, no one ever said "Because of what you did we're
16 going to get you", no, nobody ever said that.

17 Q. You say that there was a change in mood. Did you get
18 the impression that the result was going to be that
19 people were out to get you, rather than that you were
20 just not part of their inner circle any more?

21 A. I was not part of their inner circle any more. I think
22 that -- we're in a storyline now where things happened
23 incrementally and I think the fair way to represent --
24 I mean you're trying to think back and even remember
25 which order things happened in and, you know, how you

1 felt at the time and it's not massively easy at this
2 point, but I think for the record it's fair to say that
3 at this point I was detached or semi-detached from the
4 inner circle, I wasn't part of the inner gang, the top
5 team in that way, but there was a feeling between us
6 that a degree of distance -- if I can try and put it
7 like that -- as we will no doubt hear, it moved further
8 along that sliding scale at a later date, but that was
9 sort of where it all began.

10 Q. And you say that you discovered that Alison Fossey had
11 had a similar experience at the Child Protection
12 Committee meeting.

13 A. Yes, I did. I rang Shaun Du Val and said "Look, I think
14 Alison Fossey, they're going to try and drag her into
15 something. Get hold of her and get her out of there".
16 I think I was later told that she got herself out of
17 there, wisely, before anybody else had asked her to ...

18 Q. Over the page at 167 {WS000536/50} you refer to her
19 meeting and you say she confirmed to you that no meeting
20 minutes were circulated of the Child Protection
21 Committee and you say:

22 "... in fact, according to information I was given
23 in 2008, there is no official record of such meeting
24 ever taking place."

25 What was that information?

1 A. I think I kept -- the conversation I had with Alison,
2 and it's hard to remember it precisely now, was that
3 "You ought to make a record of what happened, you ought
4 to make sure that the minutes of the meeting reflect
5 that you withdrew before any vote of no confidence was
6 taken in the Health Minister and when you've got hold of
7 those minutes I want to see them". I never got to see
8 them. I'm pretty convinced of that and I think I might
9 have asked her "Have you got the minutes yet?", "No,
10 there are no minutes". Having said that, in Jersey
11 minutes of meetings sometimes appear a long time after
12 the meeting. I just remember in the aftermath I was
13 quite keen to see these minutes and I never got to see
14 them.

15 Q. So who told you that in 2008?

16 A. Who told me about?

17 Q. You say "according to information I was given in 2008";
18 from whom did that information come?

19 A. Yes, well, I can't remember. I remember saying to
20 Alison "I want to see the minutes", I have no
21 recollection of ever seeing them and I have remembered
22 a conversation that might have been -- and it could only
23 have been with her, which left me with the belief that
24 no minutes had ever been produced. That's as well --
25 again for the reason -- it's as good as I can do, you

1 know. I'm sure I could do better with more help, but
2 that's as well as I can do it at this time.

3 Q. In fact I can tell you that the Inquiry has fairly
4 recently been provided with minutes of the meeting, but
5 there is no evidence so far that those minutes were ever
6 circulated and the minutes of the following Child
7 Protection Committee meeting do not refer to them. Does
8 that help at all with your recollection --

9 A. Yes, there were minutes that nobody is allowed to see.
10 Well, it explains why I never got to see them because
11 they were never circulated and so it's not unreasonable
12 for me to believe they were never circulated because
13 they didn't exist. They did exist but they weren't
14 circulated. Well, other people are well qualified to
15 draw conclusions about that behaviour.

16 Q. Over the page {WS000536/51} you go on to say that
17 Senator Syvret was in fact removed from his post,
18 paragraph 171.

19 A. Yes.

20 Q. And you say at 172:

21 "This was one of a series of events which
22 contributed to tension between the Force and the
23 political leadership of the Island ..."

24 What were the other events?

25 A. I think the other events came later, probably -- let's

1 have a look.

2 (Pause).

3 I think I can only have meant some of the things
4 under Rectangle. I cannot now recall what I had in mind
5 when I wrote that. If it wasn't Rectangle or the
6 Bull report, perhaps it was the Every case. No, I'm
7 just not sure about that. It has to be about Rectangle
8 I think. There will have been other -- yes, I mean
9 I have described elsewhere the constant battle, if you
10 like, in the change to ministerial government -- yes, in
11 the change to ministerial government and the new
12 responsibilities and accountabilities, trying to ensure
13 that this was crafted in a way that maintained some form
14 of constabulary independence, the tensions that I had
15 over who should be accounting officer for the Force.
16 You know, we all had the same -- a lot of disagreements
17 were happening and they had the same theme, "I am not
18 head of a Jersey government department, I am head of a
19 police service which has sworn an oath of independence
20 and allegiance to the Crown. We swear allegiance to
21 the Crown, not to a Jersey Government. You uphold the
22 laws in Jersey. Now, that is an ill-defined
23 arrangement, but in the transition, in the political
24 reform that was going on, I would constantly see
25 documents which sought to suck me and my personnel into

1 the Jersey Government hierarchy and I was constantly
2 having sometimes heated discussions about "We're not
3 having this", you know "I'm not having this", "I will
4 take this as far as I have to but I'm not having my
5 people suspended by a Minister because they're asking
6 the wrong questions."

7 Q. With whom did you have those discussions?

8 A. It would be with Bill Ogley, it would be within the
9 Corporate Management Board, it would be with politicians
10 where necessary.

11 Q. Any particular politicians you can recall?

12 A. No, I think Frank Walker featured at some point, but it
13 was largely through Bill Ogley and the senior people in
14 the Civil Service and sometimes the problem was an
15 innocent one. They had just got so accustomed to the
16 language of the hierarchy and States departments and all
17 that sort of thing, but I would say "Look, you're
18 turning the Police Service here into sort of the
19 Government's security service, what you're doing here",
20 "Oh, I didn't realise that, we didn't intend that" and
21 that's fine, but other times it would be "Well it's
22 about time somebody got a grip of what you're doing in
23 relation to finance or something so we're going to make
24 somebody else responsible for this or that relating to
25 the Police", but a lot of exchanges were going on.

1 Q. You said in relation to the incident at the Corporate
2 Management Board meeting when you wouldn't cooperate
3 with the no confidence idea that afterwards your
4 relationship with Frank Walker was probably damaged.

5 A. Well, yes.

6 Q. Did you have many direct dealings with him?

7 A. Not a lot. I used to give him a security briefing
8 periodically.

9 Q. So was it just your assumption that he would have found
10 out about this and therefore treat you with the same
11 guardedness that the others did?

12 A. Oh, yes. Ogley would have reported back and my guess is
13 if things were typical Walker would have said "Did you
14 get what I wanted?" and he would have said "Everyone was
15 on side except for one", yes, that's how that will have
16 gone.

17 Q. In paragraph 172 {WS000536/51} you say in the middle:

18 "We did not agree ..."

19 And I think that's "we" being the Police and the
20 political leadership:

21 " ... did not agree on how the build-up of
22 allegations and concerns regarding abuse issues was to
23 be managed."

24 And you were clear that the only way to bring the
25 growing crisis to an end was to investigate everything.

1 A. Yes.

2 Q. And your impression was that those in government wanted
3 the whole issue to go away.

4 A. Yes.

5 Q. How did you gain that impression?

6 A. I suppose in conversation. This was a time when I was
7 in continual conversation with people at senior levels
8 in the Jersey establishment and I'm sure that there is
9 another witness who will be coming later who can speak
10 to this better than me, but all of the feedback I was
11 getting was "When is this going to stop?"

12 Q. From whom would you get that feedback?

13 A. It would be sometimes from Frank Walker. It tended to
14 take the form of derogatory comments about Lenny Harper.
15 I did have one exchange with the Bailiff, a routine
16 meeting with the Bailiff at the time who was very
17 critical of Lenny Harper --

18 THE CHAIR: Sorry, Ms McGahey, could we just rise?

19 MS MCGAHEY: Of course.

20 (11.00 am)

21 (A short break)

22 (11.30 am)

23 THE CHAIR: Yes, Ms McGahey.

24 MS MCGAHEY: Thank you, Madam. Could we go please to
25 paragraph 172 on page 51 of Mr Power's statement

1 {WS000536/51}.

2 I was asking you about this paragraph and about the
3 disputes over the way in which the abuse issues were to
4 be managed and you say that:

5 "My impression of those in government was that they
6 just wanted the whole issue to go away."

7 A. Yes.

8 Q. Was there anyone in particular who gave you that
9 impression?

10 A. I think it was the general feeling and I'm trying to get
11 where we are because as the inquiry went on that noise
12 became louder. It was more in the sub-text of what
13 people were saying at that time.

14 Q. And who are those people?

15 A. I suppose politicians ...

16 Q. Anyone in particular?

17 A. Where are we -- I'm sorry to interrupt you, but where
18 are we at this point, are we at the point where we are
19 searching at Haut de la Garenne, or are we before that
20 time?

21 Q. Well, your statement rather suggests that we are before
22 that time because you say it is a series of events which
23 is "instructive as part of the background to and
24 circumstances surrounding the launch and pursuit of
25 Rectangle", so I'm assuming it is before Rectangle

1 starts, or possibly in its early stages. Take the
2 period before Rectangle starts.

3 A. Before Rectangle starts, a growing build up of tension
4 between Stuart Syvret and the rest of the political
5 establishment.

6 Q. One of the causes for that was his inquiries about the
7 child abuse investigation, the sea cadet?

8 A. It was around his dismissal and that triggered a debate,
9 as I recall, about the quality or otherwise of child
10 protection issues in the Island. At some point
11 Rectangle was covert, so we're in the difficult position
12 of Stuart Syvret for criticising us for doing nothing
13 when we were doing quite a lot and that was the
14 situation at the time. Then it became overt and Stuart,
15 understandably, was quite strong politically on that,
16 "There you are, I have been right all along", sort of
17 things that he was saying.

18 Q. But who were the people who wanted it to go away?

19 A. You picked that -- initially I picked that up in the
20 sub-text of what people were saying.

21 Q. What who were saying, who were the people who were
22 saying it?

23 A. Well, you meet political figures and senior -- and
24 members of the legal establishment on a sort of
25 day-to-day basis and I did start by saying -- you know,

1 I had one early meeting with the Bailiff when I said
2 "This is building and growing" and he was critical of
3 Lenny Harper and I said what I believe now, that we had
4 passed a tipping point on this: there is only one way
5 out of this and that is get to the point where you can
6 say that everything possible has been done and then you
7 close it down. I will close it down, I have no problem
8 with standing up and saying "It's all over" as long as
9 I can say that everything possible has been done, but
10 you have to get through that pain barrier of doing all
11 that you possibly can and revealing all that needs to be
12 revealed, and I recall he wasn't enthused about that and
13 he felt the whole thing was unfair and was a slur -- but
14 I can't remember that conversation precisely. What he
15 certainly didn't do was come back and say "Yes, I think
16 you are right, Chief".

17 Q. Are there any other government or political figures you
18 can think of who wanted this to go away?

19 A. A lot of this I was getting I was getting second-hand
20 from Wendy Kinnard. She was telling me what people were
21 saying to her and I suppose that informed this
22 impression that I was getting, as well as the day-to-day
23 little bits of conversation you have. I mean further
24 down the line we can talk about Ben Shenton and others
25 who were clearly much more visible in the critical area

1 in relation to the investigation, but at that time
2 you -- if you had been at the top level a long time you
3 can sense the atmosphere, you can sense the mood, you
4 can tell which way the wind is blowing and I could feel
5 that this was not being warmly received, what we were
6 doing. Whenever I had a conversation with anyone at
7 senior political level, apart from Wendy Kinnard,
8 I don't remember anyone saying "Good job you're doing
9 there, Chief, it's about time these things were looked
10 at." Nobody said that once. It was all "Oh, well, yes,
11 some of it sounds a bit difficult this, and look what
12 the press are saying", you know, it was all about the
13 problems for them. The problems it was causing them
14 were top of the agenda.

15 Q. You talk a little more about that at paragraph 174
16 {WS000536/52} because what you say there is that:

17 "Discussion always seemed to be about delivering an
18 agenda on budget and 'protecting the reputation of the
19 Island' (usually meaning the reputations of those
20 engaged in the discussion). Jersey political life
21 sometimes appears to be obsessed with reputation."

22 Were people willing to protect Jersey's reputation
23 even if that meant covering up child abuse?

24 A. Well, that's a big question, isn't it just? I suppose
25 my answer based on if you like the panoramic view of the

1 whole thing from start to finish is: yes. Yes. I think
2 you can -- it's for other people to come to that
3 conclusion, not me, but I think that that's what
4 I believed, that's what I believed, based on all that
5 I saw and heard, yes.

6 Q. Did you ever have a conversation with anyone in
7 government who said "Look, this is doing a lot of damage
8 to Jersey's reputation"?

9 A. Oh, yes, all the time. Frank Walker would say that,
10 Bill Ogley would say that. He would get comments in
11 chance -- if you walk about town of a lunchtime you can
12 have conversations with half a dozen States members,
13 that's the way things sometimes were.

14 Q. Did you respond to that, that there were child
15 protection issues here that need to be investigated?

16 A. Yes, I responded -- I tried to be sympathetic to their
17 concerns. I would say "If you're concerned about
18 reputation I will tell you there's only one way out and
19 that is to do this thoroughly and you will enhance your
20 reputation by doing that", was the line I took. You
21 know, "Get a reputation as being people who will
22 confront and deal with these things." I didn't --
23 nobody came back and said "I think you're right", apart
24 from Wendy Kinnard, but that was all it was about
25 really.

1 Q. I would like to move to a more specific topic, which is
2 that of Andre Bonjour. Could we go please to page 54 in
3 the statement, paragraph 180 {WS000536/54}, and you are
4 talking there about another event which was one of the
5 triggers for Operation Rectangle and that was the
6 discovery of the Peter Hewlett report and the fact that
7 nothing had been done with it.

8 A. Yes.

9 Q. And you say in paragraph 181 that:

10 "The concerns were such that South Yorkshire Police
11 were asked by Lenny to conduct an investigation ..."

12 Did Mr Harper consult you before bringing in
13 an outside --

14 A. Yes. We had talked about how Hewlett did a report
15 expressing ground level operational concerns about child
16 abuse and the need for a historic abuse investigation.
17 One day Lenny -- and I knew nothing about that report
18 until one day Lenny and I spoke and he told me, he said
19 "Look, there is this report which calls for, sees the
20 need, makes out a professional case for a historic abuse
21 investigation and I found that it was submitted to
22 Andre Bonjour and he has had it for 12 months and has
23 done nothing with it" and I said "That's got to be
24 investigated. You've got to have that investigated.
25 We're not going to deal with that in-house, get someone

1 from outside, independent and we will pay for that, to
2 take a thorough professional -- I want to know what's
3 going on there".

4 Q. So it was actually you who instigated bringing in
5 a South Yorkshire --

6 A. The paperwork will show it was Lenny, but we both had
7 the same reaction to it, so if he says it was his idea,
8 it probably was as well. He would be sort of getting my
9 agreement. We were just absolutely as one on that
10 particular issue.

11 Q. Did you ever see DS Hewlett's report?

12 A. If I did I don't remember.

13 Q. And you said that your recollection was that Mr Bonjour
14 had just said he was too busy and never got round to it.

15 A. I understand that was the defence line that he was
16 putting forward, yes.

17 Q. In fact it seems he told South Yorkshire Police that he
18 didn't regard the report as being an adequate basis for
19 a further investigation and so he and John Pearson had
20 decided together not to go ahead, not to do anything
21 with it and there are disputes about whether that's
22 right or not, but does that ring any bells with you?

23 A. It doesn't ring any bells with me at all and I --

24 Q. Did you ever discuss it with Mr Bonjour?

25 A. No I didn't. It wouldn't have been appropriate -- once

1 you have initiated a disciplinary investigation you
2 can't then have a conversation with the officer who is
3 being investigated, that's the awkwardness of it.

4 Q. Can you have a conversation before you decide you need
5 an outside force to investigate?

6 A. Well, I wouldn't have that conversation again, because
7 in any disciplinary hearing I would be chairing that
8 hearing, so I would need -- it's a difficult thing to
9 maintain in a small force, but at least as far as you
10 can you try to keep me separate from any investigation,
11 so I wouldn't have had that conversation at all, no.

12 Q. You say in paragraph 182 {WS000536/54} that:

13 "... there was a suspicion among others that Andre
14 had somehow wanted to suppress the issue."

15 A. Yes.

16 Q. And you go on to say that may not have been a result of
17 an improper motive but more a culture of inertia.

18 A. Yes.

19 Q. Do you remember who held the suspicion that there was
20 a desire to suppress the report?

21 A. I suppose I did. And Lenny -- I think it is one of the
22 questions that had to be answered, you know, why are we
23 having an investigation unless there is a suspicion
24 about it. You can't go forward with a historic abuse
25 investigation where a report has been sitting and not

1 actioned for 12 months and not have an answer to some of
2 the big questions around that. And there has to be
3 reasonable suspicion before you can -- I always maintain
4 at least that before you can use police powers you have
5 to have reasonable suspicion that there is something
6 which requires some sort of formal action. So yes,
7 I suspected it, Lenny suspected it as far as I know, and
8 I suppose being the force that it was in the small
9 building it was, you know, half the people in the
10 building might have suspected it, because you couldn't
11 keep it a secret, I mean everybody knew.

12 Q. Going back more generally to Rectangle, you have
13 identified a number of factors that led to its creation.

14 A. Yes.

15 Q. And over the page, page 55 {WS000536/55}, paragraph 183,
16 you say you can't remember the exact day
17 Operation Rectangle officially started. You think it
18 began over a year before it became publicly known.

19 A. Yes.

20 Q. In fact the documents we have suggest that it was given
21 its name in June 2007, became active within a couple of
22 months and was overt by November 2007. Does that sound
23 about right?

24 A. I'm sure that what you have said is right. It's not in
25 conflict with anything I remember, I just don't remember

1 the chronology very well at all.

2 Q. Who actually made the decision to set up Rectangle?

3 A. Well, it was certainly a corporate decision. I was
4 aware of it and I agreed to it. I don't think that
5 means it's my decision. I think it would have been Head
6 of Operations, John Pearson, or it would have been the
7 Deputy, Lenny Harper, but I as Chief wouldn't set up an
8 operation, but I knew they were setting one up and I was
9 fine about that. If they'd have told me "We have
10 decided not to set one up" I might have said "You need
11 to explain that", so yes I'm okay with that.

12 Q. And it was initially covert?

13 A. Yes.

14 Q. Do you remember who it involved at that very early
15 covert stage?

16 A. I wonder if Alison Fossey was involved from the very
17 beginning, but I'm not sure.

18 Q. There is other evidence to suggest that she was, yes.

19 A. Yes.

20 Q. And you said in paragraph 187 {WS000536/56} that during
21 its covert phase you provided confidential briefings to
22 Senator Kinnard, Frank Walker and Bill Ogley and then as
23 time passed the briefings became more detailed;
24 presumably that's as you gathered more evidence and more
25 material?

1 A. Yes.

2 Q. And you say as a result of that:

3 "There can be no doubt ... that key figures in
4 government were formally put on alert that
5 Operation Rectangle was about to 'take off' ..."

6 In other words that it was going to go public:

7 " ... and that some preparation would be
8 appropriate."

9 A. Yes.

10 Q. As you have said though, you didn't anticipate how big
11 Rectangle was to become?

12 A. No.

13 Q. So presumably you couldn't warn them either?

14 A. Of how big it was going to become? But I kept trying to
15 say to them "You're going to come under pressure on this
16 when it all breaks and you need to have a plan in place,
17 you need to prepare yourself for this event which will
18 be news" -- I mean I didn't doubt it would be
19 newsworthy, there would be some UK interest in it.
20 I confess I did not see/anticipate the scale that it
21 would assume, I mean that's the nature of these things
22 and there have been comparable inquiries since, haven't
23 there, when they start off and exceed all expectations
24 of what they might be doing. It happens and yes it
25 caught me out a bit, but I was the one who kept going to

1 them and pushing them to say "This is where we are, it
2 is going to break, have a plan." Yes.

3 Q. What was their attitude towards Rectangle?

4 A. Well, I -- it was a bit -- it wasn't warm, but it wasn't
5 overtly hostile and I didn't get the impression that the
6 importance of it was registering. If you had
7 a conversation about it it was formal, it was
8 professional, but I didn't -- few questions were asked
9 and I didn't get any sense of sort of urgency from them
10 at all about it. It was "Okay thank you for telling us,
11 we'll think about what we're going to do" sort of thing.

12 Q. Did you always see all three of them together,
13 Senator Kinnard, Mr Walker and --

14 A. No, I never saw -- now, yes, right, I mean I don't
15 include in some of the latter comments Wendy Kinnard who
16 I think was more switched on to it and her briefings
17 were one-to-one. The briefings of Frank Walker and
18 Bill Ogley were my attempts to get the rest of the
19 Jersey Government structure lined up and ready for this
20 and I didn't see the three of them together in those
21 stages. I did at one meeting later on, but it was
22 Walker and Ogley together and I sometimes read
23 a prepared statement that I cleared with Lenny to tell
24 them where we were and give some advice as to what they
25 should be doing.

1 Q. And you say in paragraph 188 {WS000536/56} that after
2 Operation Rectangle had become public, which I think
3 was November 2007:

4 " ... political controversy intensified. There were
5 angry exchanges in the States and elsewhere, which in
6 brief involved Senator Syvret stating that he was right
7 all along and ministers defending their position."

8 A. Yes.

9 Q. What was the position they had to defend?

10 A. Yes, that they were -- they were saying they were
11 cooperating fully, that nothing had been hidden and that
12 "Well, these are allegations, let's see if anything has
13 been proved". I mean it wasn't unreasonable, I suppose,
14 what they were saying and Stuart was saying "Well,
15 you've been" -- I don't know. Typically he would say
16 things like "You're all in this together, you've been
17 covering it up for years, all these failings in child
18 protection, I have been telling you about them and it's
19 all going to come out now", and they would respond
20 "Well, we don't agree with what you're saying about our
21 child protection systems and we'll just let the
22 investigation run its course." It was a political
23 debate, the things that politicians say to each other,
24 but Stuart was being very outspoken and very critical of
25 what he saw as an establishment cover-up and they were

1 saying "There is no establishment cover-up but we're
2 going to let this investigation run its course."

3 Q. At that stage, apart from Senator Syvret, was there any
4 notable political support for Operation Rectangle?

5 A. Well, yes, I think some political figures were
6 supportive. You sometimes got sort of critical friends
7 support in the sense that people were sort of supportive
8 but not totally supportive, but I know at different
9 points Bob Hill came into the picture and was supportive
10 of the investigation and, to be fair, Frank Walker and
11 others did visit the scene and say words of support.
12 I mean it's very difficult and very complex, nobody at
13 that time was saying overtly "We want this to go away."
14 You sensed that there was that feeling about, but
15 I suppose I was always conscious of what I was picking
16 up from Wendy Kinnard who was saying "There's a big
17 difference between what they're saying officially and
18 openly and what they're saying in private", you know,
19 and from the sort of vibrations I was picking up in my
20 conversations with these people I believed that what she
21 was telling me about that was probably right.

22 Q. And what was she telling you was being said in private?

23 A. That they were hostile to the inquiry, they wanted it to
24 go away, they would love to be able to find a way to
25 bring it to an end, those sorts of things. They just

1 wished the whole thing was shut down and forgotten
2 about, that's what she was saying.

3 Q. And who are the people who were saying this?

4 A. She would say virtually all ministerial colleagues were
5 in that state of mind. She will speak for herself, but
6 that is my recollection of the sort of messages that she
7 was bringing back to me.

8 Q. You said that Frank Walker visited the scene --

9 A. Yes.

10 Q. -- presumably that's Haut de la Garenne, during the
11 searches?

12 A. Haut de la Garenne, yes -- yes he did, yes.

13 Q. So was this sort of hostility being reported by
14 Wendy Kinnard after the publicity had really become
15 international? Was it this stage?

16 A. I think it was at various stages and it intensified the
17 more intense the publicity became, yes.

18 Q. I would like to ask you about one specific aspect of
19 Rectangle which is the investigation into alleged abuse
20 by the Maguires.

21 A. Yes.

22 Q. If we could have please paragraph 205, which is page 61
23 {WS000536/61}. In the pages I have jumped over you
24 provide a summary and you say that before you came to
25 Jersey a case against the Maguires was dropped and you

1 understood that one of the reasons was that Mr Maguire
2 was believed to be terminally ill and during the course
3 of Rectangle it emerged that he was still alive and
4 living in France.

5 A. Yes.

6 Q. Your direct involvement arose from allegations made by
7 Senator Syvret, is that right?

8 A. Yes.

9 Q. Which you see at paragraph 205 {WS000536/61}.

10 A. Yes, I've got it.

11 Q. Then later in your statement you provide more detail.
12 Essentially Senator Syvret was alleging that members of
13 the Law Officers' Department had been involved in
14 a cover-up?

15 A. They were involved in a criminal conspiracy to prevent
16 child abusers from being brought to justice, that's what
17 he was saying and he wanted a criminal investigation,
18 yes.

19 Q. And you told us in your statement you took the view that
20 there would be a criminal investigation only if the
21 reasonable suspicion test were met.

22 A. Yes.

23 Q. Was that the usual test applied before an investigation?

24 A. It is the usual test applied by me. I don't know that
25 there's a golden rule about it. In Scotland you would

1 have gone to the Procurator Fiscal, because it would be
2 his or her decision, and said "Do you want this
3 investigating?" I don't know what you do in England,
4 you might take advice off the CPS. But I thought the
5 rule that I was applying -- a good old fashioned
6 policeman's rule, if you like, is there reasonable
7 suspicion -- was a fair one, so I said there's not going
8 to be a criminal investigation unless I have on my desk
9 a report which shows reasonable suspicion that
10 an offence might have been committed as alleged. That's
11 the line I took.

12 Q. Is that the test you applied to every case in which you
13 had to make a decision as to whether there should be an
14 investigation?

15 A. Yes, I would look at that, yes, because why run around
16 spending time and money building up a huge file of
17 papers if you don't think there's anything in it to
18 begin with, it's irresponsible use of public funds, so
19 the reasonable suspicion test is what I would -- you
20 can't say that's a cast iron rule in every case, but
21 I always ask myself that: is there reasonable suspicion
22 here.

23 Q. If we go further in your statement please to
24 paragraph 223 at page 67 {WS000536/67}, you say that you
25 were talking at one point to William Bailhache, then the

1 Attorney, in connection with another matter and:

2 "He told me that he had heard of the allegations of
3 cover-up and he wanted them investigated by a police
4 force from outside of the Island."

5 And you told him that that was a decision for you,
6 to be taken with the Home Affairs Minister.

7 A. Yes.

8 Q. But was it clear from the conversation that he wanted
9 someone to get to the bottom of this?

10 A. I don't know that I can draw conclusion about that
11 either way. He said he had heard of the allegations
12 that Syvret had made and if there's going to be an
13 investigation he didn't want it doing by the States of
14 Jersey Police, he wanted someone independent from
15 outside the Island to do it and I responded just as
16 I said, I said "I haven't decided yet that there's going
17 to be a criminal investigation, I'm going to apply the
18 reasonable suspicion test and I'm taking some specialist
19 advice on that."

20 Q. And did he explain to you why he would want any
21 investigation to be done by an outside force?

22 A. No, he didn't, but I assume that he wanted to feel
23 assured that any investigation would be thoroughly
24 independent.

25 Q. So there was no question of him then wanting to

1 participate in any kind of cover-up or discourage the
2 investigation?

3 A. No, no, not at all. I mean I think we both knew at the
4 beginning that it would be a surprise if there was any
5 basis for a serious criminal investigation into the
6 allegations. It was a question about how it would be
7 handled and I mean he would have assumed I think that he
8 had nothing to fear from any such investigation and
9 I think -- nothing to fear in a criminal sense from any
10 such investigation and I think he was right. You know,
11 whether there would be any criticism of the professional
12 handling of the cases is quite another matter. I wasn't
13 concerned with that, nothing to do with me. The
14 allegation was that these decisions were so perverse
15 that they amounted to a criminal act, that they were
16 beyond the bounds of what any reasonable lawyer could
17 possibly decide in those circumstances. I didn't think
18 that was going to be a difficult question to answer, but
19 there was a process to be gone through and I didn't
20 think that he was too concerned about it. He was just
21 concerned that it might be mishandled. It wasn't going
22 to be mishandled.

23 Q. You just said moments ago that you told him you were
24 taking specialist advice.

25 A. Yes.

1 Q. Was that from Advocate MacRae?

2 A. I spoke to Stéphanie Nicolle who had just retired as
3 Solicitor General and I had a conversation with her, and
4 also then I suppose I think to Tim Le Cocq who was
5 appointed Solicitor General, but through this
6 conversation I got to a point where we agreed that
7 Advocate MacRae would help me with this, that's my
8 decision. I have described the advice -- advice is
9 advice, but I decided to take the advice.

10 Q. And you arranged for Advocate MacRae to review the
11 Maguire file and the Victoria College file and a number
12 of other child abuse files selected at random?

13 A. Yes I did, I sent someone down into the cellars and said
14 "Pick half a dozen no action child abuse files, bring
15 them up here and leave it to me", yes.

16 Q. And in respect of the Maguires and the randomly selected
17 files, he essentially reached the conclusion that while
18 not all prosecutors would have taken the decision not to
19 prosecute, the decision was within a range of reasonable
20 decisions, is that right?

21 A. Yes, with some help from the UK. It was within the
22 range of reasonable decisions, based on the evidence
23 which was in the files, yes.

24 Q. And that's something you emphasise, isn't it?

25 A. Yes.

1 Q. Because you and Advocate MacRae were restricted to
2 looking at the material that would have been placed
3 before the Law Officers at the time?

4 A. Yes, what did they have on their desk when they took the
5 decision. That's not the same as what they could or
6 should have had on their desk. That's a different
7 thing.

8 Q. And the question of whether there had been an adequate
9 Police investigation leading to the best possible
10 evidence on their desks was beyond what you were looking
11 at, is that right?

12 A. I wasn't looking at that, no.

13 Q. In respect of Victoria College he reached a slightly
14 different conclusion, which was that really it was too
15 late and that to go back and look for people in addition
16 to Mr Jervis-Dykes to prosecute would almost certainly
17 be seen as an abuse of process.

18 A. Yes, more could and should have been done at the time
19 but it was too late then.

20 Q. But his conclusion and your conclusion was that there
21 was no basis for a criminal investigation?

22 A. There was no basis for a criminal investigation. Yes.

23 Q. I would like to ask you about a more general point,
24 although it arose in the case of the Maguires. If we
25 could go back please to paragraph 209 which is page 62

1 of your statement {WS000536/62}, you say that one reason
2 which appears to have been a factor in abandoning the
3 case against the Maguires was the character and
4 lifestyle of the victims.

5 A. Yes.

6 Q. Does that mean that their characters, their lifestyles
7 meant that they were seen as potentially unreliable
8 witnesses?

9 A. Yes. Well, this is a common feature in historic abuse
10 investigations. People are often damaged as young
11 people and go on to be damaged adults and so it is
12 always easy to say there are issues about credibility of
13 witnesses: look at that person they've got addiction
14 problems, look at them they have been in prison, and
15 whatever. There is hardly an abuse inquiry that would
16 get off the ground if you gave too much weight to --
17 they are ever present features of child abuse
18 investigations.

19 Q. Was that a view that you held when you were looking at
20 Rectangle in 2007/2008?

21 A. Well, yes. There is always going to be a difficulty
22 with witness credibility, yes. I wasn't the
23 investigating officer, but everybody knew that, that
24 witness credibility would be a problem.

25 Q. You were looking, when you were investigating

1 Senator Syvret's allegations, at decisions made in the
2 1990s in respect of the Maguires?

3 A. Yes.

4 Q. In the 1990s we know that you were an assistant chief
5 constable and then a deputy chief constable.

6 A. Yes.

7 Q. Can you say from your own knowledge what the view of
8 investigators would have been about the reliability of
9 child abuse victims in the 1990s?

10 A. It was less sympathetic and less supportive than it is
11 now. I mean otherwise we wouldn't be now investigating
12 things that happened in those times. It's true and fair
13 to say that standards were different and that the
14 unreliability of some witnesses, we would now say with
15 hindsight, was too readily seized upon as a reason for
16 not taking action, that as the criminal justice system
17 has progressed ways have been found of dealing with that
18 issue that perhaps weren't as evident in that time.

19 Q. Could you go please to paragraph 212 of your statement,
20 just on the next page {WS000536/63}, and again you make
21 the point there that:

22 "It is important not to be too ready to judge the
23 performance of a criminal justice system in the 1990s
24 against ..."

25 The modern day. And over the page {WS000536/64} you

1 say:

2 "In current circumstances in the UK prosecutors go
3 to great lengths to assure victims that wherever it is
4 possible, their cases will be heard in court."

5 And public statements of encouragement are made,
6 sympathetic explanations given when a case is not to
7 proceed and vulnerable witnesses are usually provided
8 with specialist support. You say that:

9 "Taken together this conveys an attitude in which
10 prosecutors are actively seeking reasons and
11 justification for taking a case to court and ..."

12 Making the best of the evidence.

13 A. Yes, that is the modern professional way. If people are
14 making serious criminal allegations which are assessed
15 as having some evidential value then you will say "This
16 will go to court unless a good reason can be found for
17 not taking it to court, and I will explain what that
18 reason is", you know, I have seen prosecutors in front
19 of a television camera saying those words.

20 Q. Was that as far as you know the practice in the UK
21 throughout the 1990s or early 2000s?

22 A. No, I don't think it was. It wasn't as evident. I mean
23 the whole criminal justice system has had a bit of
24 a shake-up over recent years, hasn't it, over these
25 issues and you get a succession of police forces and

1 prosecutors apologising that their department hasn't
2 done what they clearly should have done in a case of 10,
3 15 years ago or whatever. There's a long list of cases
4 that have been spoken of in that way. So it's right to
5 say that that was not the evident view -- it wasn't the
6 evident attitude in the 1990s, no.

7 Q. What was the attitude of the officers working on
8 Operation Rectangle?

9 A. It was that these cases should go to court if at all
10 possible, that the whole matter needed thorough
11 investigation. I mean no -- I don't want to criticise
12 anybody else, but I've seen reports where people have
13 described recent historic allegations as believable and
14 true. I don't think we ever said anything like that.
15 My position -- I'm very sure what I said "These are
16 matters which as investigators we have a duty to
17 thoroughly investigate, it might come to something, it
18 might come to nothing, but we're going to give it our
19 best effort to see what we can find out", you know, that
20 was the attitude. That was the message I was passing
21 down the line and I think it was Lenny -- you know,
22 everybody knew that, we were just going to make the best
23 efforts. I go back to what I was saying about public
24 figures in the run up. You just need to get yourself to
25 a point where you say "Everything possible has been done

1 and that's the end of it" and we're a long way from
2 getting to that point.

3 Q. In your statement, when discussing the Maguires you
4 speculate on the factors that may have contributed to
5 the decision not to prosecute them.

6 A. Yes.

7 Q. And you say at paragraph 217 over the page {WS000536/65}
8 that "because so little of the decision-making process
9 is documented" you cannot be sure on essentially the
10 reasons for which no prosecutions went ahead, either
11 initially or when it was reviewed later and you
12 speculate that it was to prevent the opening of a can of
13 worms.

14 A. Well, yes.

15 Q. Are you aware that in June 2009 the Attorney issued
16 a detailed press release in which he explained the
17 decisions not to prosecute a number of people, including
18 the Maguires?

19 A. Well that was in 2009. I am talking there about the
20 original Maguire case and not the reinvestigation of the
21 Maguires. I don't think at any point I'm critical of
22 a decision that is taken by the Senior Prosecutor on the
23 file -- and we have just talked -- that hit their desk,
24 but I am critical -- and it's hard when you don't have
25 all the evidence in front of you -- that in so many

1 cases that file was not as full or strong as it ought to
2 be. Somebody watered it down before it got to
3 a decision maker.

4 Q. Can I stop you there, do you know whether it was watered
5 down, or whether the evidence simply was not there and
6 could not have been there?

7 A. No, I think from what I have seen I think -- you know,
8 you take the Maguire case. There are allegations of
9 sexual assault in the first case that disappear and on
10 the disclosure I have seen there is no clear audit trail
11 of just who took that decision, there is no rationale.
12 The big decision at the end might be well documented and
13 it might stand up, it's the incremental decisions on the
14 route to the final decision maker that seemed to me to
15 be questionable and poorly -- you know, who said that
16 these allegations, these abuse allegations were going to
17 be taken away from the original Maguire case? Who took
18 that decision? Why? Where is the evidence? I haven't
19 seen it, show me it and I might take a different view,
20 but that seems to me to be a quiet watering down of the
21 case.

22 Q. In 2009 the Attorney did give a brief explanation as to
23 why the original prosecution was dropped and he said
24 that a number of lawyers had been involved in the
25 decision and had analysed the evidence involved and

1 although all present were aware of the assertion that
2 Mr Maguire essentially was suffering from a terminal
3 illness, that possibility was not a factor in the
4 decision not to prosecute.

5 Were you aware of that press release at the time?

6 A. No, I haven't seen that, no. But, you know, if I sit
7 for 100 years I'm not going to say that I really like
8 the Maguire case and I'm satisfied that best efforts
9 were made to get the best evidence on the desk of the
10 Attorney General in relation to that. On what I have
11 seen I just don't think that is the case.

12 Q. Could we move on to other aspects of Operation Rectangle
13 and to paragraph 232 which is at page 69 {WS000536/69}
14 of your statement.

15 A. Yes.

16 Q. You say:

17 "From briefings I had been given I understood that
18 Operation Rectangle had uncovered allegations concerning
19 a clique of alleged paedophiles which included
20 police officers and senior officials."

21 A. Yes.

22 Q. Who had given you those briefings?

23 A. Possibly others, but certainly Lenny Harper.

24 Q. And what did you mean by a "clique"?

25 A. What I recall is that I was told that a group of

1 police officers, senior officials and people who were
2 subsequently associated with paedophile activity used to
3 meet as a group at the Yacht Club at the same time and
4 socialise together, that they were seen as a group who
5 interacted with each other. I think that Lenny took
6 some people and tried to get hold of the register of the
7 club for that period to see who was in and on what days
8 and who they were with and that sort of thing, but he
9 couldn't do it.

10 Q. Did the police officers include serving police officers
11 serving at the time of Rectangle?

12 A. I don't think they were serving at the time of
13 Rectangle, no.

14 Q. Was the allegation that these were people who although
15 paedophiles associated socially, or whose paedophile
16 activity was also a group activity?

17 A. Well, it wasn't the latter, but you couldn't establish
18 the latter, but what -- if you were doing the usual sort
19 of graph as to who is linked and who associated to who
20 there would be some direct lines running between some
21 known paedophiles and senior police officers, or senior
22 government officials, and that is a worrying feature.
23 It needs to be investigated. It is possible that it
24 could have been thoroughly investigated and it could
25 have revealed that the presence of senior

1 police officers or senior civil servants was entirely
2 innocent and coincidental and they knew nothing
3 whatsoever about the activities of the people -- yes,
4 that was a possible outcome, but there are other
5 possible outcomes again. Like a lot of these things,
6 that emerged as something that needed to be looked at,
7 and it also formed part of a sort of background that was
8 part of a sort of disturbing coincidences/sequence of
9 events that we were getting that created a sort of
10 I suppose you have to say mood of suspicion.

11 Q. And was it investigated?

12 A. I think the investigation came to a dead end because it
13 wasn't possible to evidence this through the entry
14 register at a club. That is my recollection of it.
15 I don't think I was -- I was told that a problem had
16 arisen with the club records. I don't remember being
17 told anything after that.

18 Q. And do you remember whether the children involved were
19 specifically children in care, or children of any
20 particular school, or group, or home?

21 A. I think the Sea Cadets were a continuing feature. There
22 was some line of inquiry in Rectangle which was
23 dedicated entirely to the Jersey Sea Cadets and I don't
24 know how that resolved itself, you know, I don't know
25 where it led to. It was a feature of some of the

1 reports that abuse was occurring at sea and there is
2 a sort of sense in that. If you've got access to yachts
3 and you can go out into international waters, why not?
4 If you're engaged with that type of activity it seems
5 a perfectly explicable thing to do, so, you know,
6 an association with the Yacht Club -- the Sea Cadets
7 featuring in some cases, the access to yachts, the
8 reports that things were happening out at sea all seemed
9 to join up into a sort of set of circumstances that
10 merited investigation.

11 Q. I would like to move on now to an individual, which is
12 Mario Lundy to whom you refer in your statement. Could
13 we have page 71 of the statement please, paragraph 237
14 {WS000536/71}. You are dealing there with a workshop
15 that took place in October 2008 and was attended by
16 a number of senior civil servants and Bill Ogley and you
17 and at the beginning the Chief Executive asked for
18 silence and made an announcement setting out his support
19 for Mr Lundy. You say:

20 "At that time [Mr Lundy] was named as a suspect in
21 the abuse investigation but had not been suspended."

22 Had he been named publicly?

23 A. Yes, he had, but not officially. I suspect it might
24 have been on a blog or whatever, but everyone knew. It
25 might have been in the paper as well. Everyone knew.

1 Q. You refer to informal publicity?

2 A. Yes, informal publicity.

3 Q. Do you know what that was?

4 A. It was probably blogging, it's probably the rumour
5 system or whatever, but everyone knew.

6 Q. Did you know?

7 A. Yes, I knew, yes. And the allegations I think it is
8 fair to say in respect of Mario were of physical abuse
9 and violent control of difficult young people. That was
10 my recollection of what the allegations were. I have no
11 recollection of any allegation of sexual abuse by
12 Mario Lundy and it is right that I should say that.

13 Well it says what I say happened at that meeting,
14 yes.

15 Q. Did you have any concerns about whether it was
16 appropriate for you to attend a workshop --

17 A. I always had concerns --

18 Q. -- with someone who was a suspect?

19 A. Well, I mean I always had concerns. I rehearsed this at
20 various points in my statement, that I'm the Chief of
21 Police and I'm supposed to be running a politically
22 independent police force and yet I'm also part of the
23 senior management of the Island. I mean if -- I often
24 wonder should I have cut myself off completely from the
25 Corporate Management Board and for all this government

1 activity and gone in -- but then that might have led to
2 other consequences, it might have led to more isolation,
3 misunderstandings, tensions and all the time I was
4 trying to build bridges and try to have business as
5 usual, and because the planning workshop was about the
6 future governance of the Island, you know, the
7 alternative to being there is not being there and I'm
8 not sure I wanted to not be there. It was very
9 difficult and if people think I got it wrong, they're
10 not going to get a big argument from me, all I'm saying
11 is it was a difficult call and that's what I did;
12 I went.

13 Q. You have explained the discomfort you felt about this
14 dual role --

15 A. Yes.

16 Q. -- of the Police getting involved in political matters,
17 but this is more specific. Was there anything that
18 concerned you about taking part in a workshop where
19 a suspect in a criminal investigation was present?

20 A. No, because -- no it didn't -- I wasn't going to have
21 any conversation with him and there are probably more
22 people in the workshop than there are in this room.
23 There are quite a lot of people there and you just
24 discreetly don't get involved in any inappropriate
25 conversation or any inappropriate contact. Yes it was

1 awkward, but you couldn't involve him anyway. We would
2 be standing in the same queue at Marks & Spencer's or
3 whatever; this is Jersey. You can't avoid people in
4 Jersey, it's not possible. So I went to the workshop,
5 but as I say, if people want to criticise me for it then
6 they're welcome. I mean I wonder myself whether I was
7 right, it's just what I did.

8 Q. Did you respond in any way to Bill Ogle's statement?

9 A. No. No, that wouldn't have been appropriate at all.

10 Q. I didn't mean publicly. Did you respond to him
11 privately?

12 A. No, I didn't. I thought I can't get myself -- I'm then
13 going to say more words, he's going to say more words,
14 something inappropriate is going to be said by one of
15 the two of us and the thing goes further downhill; just
16 leave it. Just leave it.

17 Q. I want to turn now to the running of Operation Rectangle
18 and your involvement in which you set out in
19 paragraph 238 onwards {WS000536/71} and essentially what
20 you say is you didn't have day-to-day involvement in
21 Rectangle, but you were very regularly briefed by
22 Lenny Harper as to what was going on, is that right?

23 A. Yes, that's true. I mean there was a police force to
24 run. Burglaries were still happening, rapes and
25 assaults were still happening and we were still

1 struggling to find enough people to put out on night
2 shift and all that sort of thing. Discipline cases were
3 happening. People had to be hired and fired, promoted,
4 budgets to be sorted out. All of that was happening all
5 the time. Business as usual was a busy thing to do,
6 particularly when you didn't have the regular support of
7 your regular Deputy.

8 Q. Because Lenny Harper was in fact, within a short time,
9 working full-time on Rectangle?

10 A. He was working full-time on Rectangle and Shaun Du Val
11 acted up in his place and did a good job --

12 Q. As Deputy?

13 A. -- as temporary Deputy, yes.

14 Q. In paragraph 239 over the page {WS000536/72} you say
15 that you maintained regular contact with Mr Harper
16 throughout the time that he was the SIO, and for the
17 most part you acted as a buffer zone to protect the
18 investigation from "interference". You say politicians
19 would quite often call the police station and ask to
20 talk to Mr Harper and you would make sure that they
21 spoke to you instead.

22 A. Yes.

23 Q. What did those politicians want to talk to you about?

24 A. Ask questions about -- I think I have seen in disclosure
25 one example of Ben Shenton bombarding with a lot of

1 questions and I think I have seen an email that I sent
2 to Frank Walker saying "Look, there's too much noise
3 coming from politicians here who wanted to ask
4 a question." The States were full of people who thought
5 they were better detectives than any of us and they
6 would want to challenge what they thought was being said
7 or done by the inquiry. What they were reacting to were
8 media reports of what was happening in the inquiry which
9 didn't always reflect the reality. You know, the
10 difference between what we were saying to the media and
11 what the media was saying was quite a problem for us and
12 we tried to manage that, but we got a lot of political
13 reaction from what the media were saying and yes --

14 Q. What were the politicians trying to do? Were they
15 trying to help the inquiry, interfere with the way it
16 was being run, hinder the inquiry?

17 A. Asking questions, "What is meant by this? Have you
18 considered this? Have you considered that? Why is this
19 or that being said?", it was that type of thing.

20 I think if you go back to Shenton's email it's typical
21 of the sort of things that were being said at that time.
22 I mean it wasn't that the lines are red hot every day,
23 but there was a job to be done. I did find it necessary
24 to say to people "Don't put anyone through to Lenny, put
25 them through to me, I'll speak to them if they ring up",

1 and I suppose the calls might have faded because we
2 weren't responding. I mean you couldn't, I'm not
3 discussing investigations with States members.

4 Q. Had it ever happened before in other investigations that
5 politicians had rung the police station and wanted to
6 talk to the officer in charge, or to you?

7 A. No. No. It just doesn't happen in other places.

8 Q. Had it happened in Jersey in respect of other
9 investigations?

10 A. Yes, it occasionally would and sometimes it's okay.
11 I mean I remember somebody coming to see me,
12 a connétable saying "I'm concerned about
13 an investigation that relates to one of my constituents
14 which is causing him a lot of stress and I think it's
15 been going on too long", and I think I looked at it and
16 concluded that yes, it had been going on too long, that
17 we needed to get an answer one way or another, but I was
18 never leaned on by that connétable to produce an answer
19 one way or the other, but that was all right, so -- but
20 at some stage one might have said "I don't think you
21 should be looking into this in relation to" -- I would
22 have just said "Stop there, stop there, unless you want
23 me to get my notebook out", you know, "I'm not having
24 this".

25 But some of the inquiries were okay and I suppose we

1 got into the habit of that. States members could pick
2 up the phone, walk in, speak to me and say "I think you
3 have made -- I have had this burglary and your lads have
4 been round, I think they have made a right mess of it
5 and they haven't taken a proper" -- "Well, I'll look at
6 it, thanks for telling me, you might have an issue." So
7 when I think about it I might have encouraged that
8 a little bit over the previous years.

9 Q. So in fact when the politicians began to ring you over
10 Rectangle was it just on a larger scale but in the same
11 nature as --

12 A. Yes, but some of it was quite nasty and intrusive.
13 I mean I go back to what I said at the beginning,
14 I can't go through the files and get it all out, but
15 I've seen the disclosure relating to Shenton and I think
16 that was typical and that is quite nasty, quite
17 aggressive and hostile was my interpretation of that
18 when I read it.

19 Q. You have said that you faced a difficulty in people
20 being unable to distinguish what the Police had said to
21 the media and what the media had reported.

22 A. Yes.

23 Q. And there was criticism, wasn't there, of Lenny Harper's
24 involvement with the press?

25 A. Yes, I mean from politicians, yes. The Council of

1 Ministers as a collective body I know wanted him removed
2 from that position, yes.

3 Q. Because he was seen to be responsible for sensationalist
4 reporting?

5 A. Yes. I mean -- yes, but Frank Walker once held up
6 a red top newspaper to me and said "Look at this, look
7 at that, look at that, look at what Lenny Harper is
8 saying now" and I said "I've looked at it and I can't
9 see anywhere in there where it says Lenny Harper said
10 it, it's what the paper is saying. You've got to learn
11 the difference between the two." And in response to
12 that criticism I sometimes would say "Show me, show me
13 the transcript, show me the recording, show me the
14 interview on television of what he has said that you
15 take exception to." I mean I know that Wiltshire Police
16 went through that exercise and in a fairly minor
17 appendix to their report there is someone who made
18 an attempt to do that and everything that that person
19 found was pretty impeccable, you've got to say. You
20 couldn't have done it better in terms of balanced
21 communication with the media.

22 Q. Well, the Wiltshire Police report quotes from some of
23 the press releases and there is a convenient place to
24 find a couple of them. Could we have on the screen
25 please {WD007874/234} please. At paragraph 5.5.8 they

1 quote from a press release which is dated
2 26 February 2008 and you can get that date from the top
3 of the page, they talk about 24 February and then say
4 that this was two days later and it says:

5 "The States of Jersey Police would like to emphasise
6 that all that has been recovered so far from the site
7 are the partial remains of what is believed to have been
8 a child."

9 That was a press release issued by SOJP?

10 A. Yes.

11 Q. With hindsight do you think that was a wise thing to
12 make public?

13 A. No, it's not good, is it? But how specific do you want
14 to be? I mean it's difficult to say, but if that's the
15 worst they can do then that ...

16 Q. You must have been aware of this press release at the
17 time?

18 A. I don't think I was.

19 Q. Well, even if you weren't aware of it before it was put
20 out you must have been aware of the publicity that
21 followed?

22 A. Yes. I mean I don't think that's the high spot of the
23 investigation. The whole handling of the first find and
24 how it was presented to the media I think with hindsight
25 could have been done better. I'm quite happy to agree

1 to that.

2 Q. So what would you say is wrong with this press release?

3 A. Well, I think the problem started with the first
4 release, wasn't it, "the partial remains of a child".
5 Lenny is trying to find words -- we're leaking like
6 a sieve as an investigation, that was clear, and you can
7 speculate now as to how that might have been happening,
8 but there was no possibility of keeping secret the fact
9 that a forensic find of some significance had been made
10 and let's not forget that the Home Office scientist at
11 the scene said "This is a piece of a child's skull."

12 Q. But there had been no time for forensic testing, had
13 there --

14 A. No.

15 Q. -- so it was on the basis of visual examination?

16 A. As an initial exam -- but I wasn't as familiar with that
17 process as I am now. My reaction then was "Well, if
18 a scientist says" -- there was nothing conditional in
19 what I was told, I'm told nothing conditional in what
20 the scientist has said. I wouldn't have used the words
21 that he used in the first release, but I would have had
22 to say something because the rumour mill would have run
23 more vigorously if you hadn't have said something. So
24 some other words could have been found which sort of
25 toned that down, the initial find, presented the initial

1 find in some way which was a little bit tighter in terms
2 of -- and discouraged the sort of sensationalist
3 reporting that came from it.

4 But I mean what this does do -- and although it's
5 not perfect from a police perspective, it does show what
6 I have just talked about: the huge disparity between
7 what we said and what was reported. That emphasises it
8 and I don't think the correction is what I would have
9 done either. But this is criticism with hindsight of
10 people who were working under intense pressure in very
11 difficult circumstances. I come back to it: is that the
12 worst anybody can do when you're looking -- the story is
13 that we spent months putting out sensationalist and
14 inaccurate reports. Well, all right, you can with
15 hindsight criticise those, but if you look into the
16 appendix to that report, buried away quietly is a long
17 list of press releases and quotes that are pretty well
18 beyond criticism, I would have thought.

19 Q. Could I ask you to look at one other, which is also
20 quoted in this report. It is at {WD007874/252} please.
21 It is at 5.6.12 at the bottom. This is a press
22 announcement on 18 April 2008:

23 "To clear some confusion which seems to exist, the
24 SOJP would like to clarify the following facts on the
25 fragment of skull found at Haut de la Garenne. We were

1 not able to date the fragment. Therefore we cannot say
2 how old it is or when, or indeed where or how, the
3 person died. We know from the archeological context in
4 which it was found that its placement in the area where
5 we recovered it pre-dates the 1940s. We also know that
6 it was placed there after the building came into use.
7 This means that the person must have died before the
8 1940s. However, we cannot say if the actual death
9 occurred before it was moved to where we found it. It
10 follows therefore that the bone could date from the
11 period just before 1940, the Victorian era, or indeed
12 even earlier if it was moved here from a previous
13 location. In the light of that, it is unlikely that we
14 will instigate a formal homicide enquiry in relation to
15 this bone alone. Although no formal parameters have
16 been placed on the enquiry, it is unlikely that we would
17 pursue any lead which tended to take us to a period
18 before the end of World War II. However, the site of
19 the home must remain the scene of a possible homicide
20 until such time as all the areas of interest which have
21 been flagged up to us have been excavated and cleared.
22 This work continues with the finding over the last few
23 days of a number of bloodstained items in cellars three
24 and four, although we emphasise that at this stage we do
25 not know if these items have an innocent explanation.

1 As stated however, it is unlikely that a formal homicide
2 enquiry could be justified in circumstances where the
3 suspects are very likely deceased. As well as having
4 huge financial implications, such an enquiry would also
5 detract from the serious allegations of criminal abuse
6 in which the victims and suspects are still alive."

7 A. Yes. Well, that tries, doesn't it? It emphasises that
8 there isn't a homicide inquiry.

9 Q. Although it does say that the site is still a possible
10 homicide scene?

11 A. But that's a difference and you can understand how lay
12 people would get confused about that, but you can have
13 a potential homicide scene without there being
14 a homicide inquiry. Example: a child disappears from
15 a playground in suspicious circumstances and you don't
16 know where the child is, if you're wise you preserve the
17 playground as a potential homicide scene. It is no good
18 finding a body three days later and saying "We've got to
19 go back to that playground." So you have to take out
20 the insurance of preserving the scene just in case you
21 find -- if you find a month later that there are grounds
22 for a homicide inquiry, you would clearly come in for
23 heavy criticism if you had allowed contamination of the
24 scene. You can't not do that.

25 So professionally -- and other people will have

1 their views about it -- I think that's a very proper
2 distinction.

3 Q. This press release didn't give any indication, did it,
4 that there were doubts over whether the item that had
5 been found was in fact a skull?

6 A. No, it doesn't. No.

7 Q. Do you think with hindsight it should have done?

8 A. I don't know where we are in the timescale, or I'm not
9 familiar with what those doubts are. I don't think
10 I have seen the paperwork that casts the doubt. I have
11 heard the stories.

12 Q. But did you see it at the time? Were you told at the
13 time?

14 A. No, at that point I don't think I was aware of any
15 doubts, no. I mean that's fairly solid in ... I mean
16 you could look back at that and think "Well, I could
17 improve a bit on that", but I don't think anybody stands
18 charged with misconduct on the strength of that, it is
19 just a good, to me, honest attempt to try and set the
20 record straight.

21 Q. Was it sensible to talk about "a number of bloodstained
22 items"?

23 A. Well, it depends on the context. I mean if you're
24 digging a hole in -- there's always a balance about how
25 open you want to be in these things. If you are too

1 secretive then people, what they can't find, they
2 invent, and there is a tactic of dealing with media
3 interest which is "Tell them something but not
4 everything, feed the beast but don't feed it too much",
5 or you can pull down the shutters. You know, it is
6 a call to be made. So other people would have done it
7 differently, but I think it's within the spectrum of
8 reasonable decision-making and it suited the style of
9 the investigating officer, who was more for transparency
10 than some other people, I suppose.

11 Q. By April 2008 the inquiry had already been subjected to
12 a great deal of international publicity, which had
13 really started in February. Was there not a risk that
14 press releases of this sort were just going to fuel it?

15 A. Yes, there's a risk. There's also a risk that if you
16 don't communicate you create speculation.

17 If you go back over any inquiry you will find things
18 that could have been done better. It might not be
19 perfect but it's not gross either. It's the sort of
20 thing that people do when they're doing their best in
21 difficult circumstances.

22 Q. Were you consulted by Mr Harper about the content of
23 these press releases before they were put out?

24 A. No, not every time. Occasionally it might happen, but
25 not every time, no. I mean it slows the process down if

1 I've got to sign off everything and -- well, we just
2 didn't do it that way. He was being advised by media
3 professionals, remember, and he had an established
4 relationship with the press and so he got on with it
5 largely.

6 Q. The material the Inquiry has indicates that from the end
7 of February to mid-March a press release is being put
8 out pretty much every day and sometimes more than once
9 a day. Did you ever express any anxiety to Mr Harper
10 about the amount of material that was being given to the
11 press?

12 A. I said "At some stage we've got to scale down. We want
13 them all to go away." You've got to kill the rumours by
14 trying to contain and encourage some sort of accuracy as
15 to what is reported, but at the same time you don't want
16 to fuel, feed and encourage the media circus. Whatever
17 we were doing it worked because before too long they had
18 all gone and the whole thing had quietened down, but
19 there was a period of intense interest, and let's not
20 forget that the intense media interest was producing
21 a product and the product was more phone calls, victims,
22 witnesses, people offering evidence and I think there
23 was a correlation between the two, you know. People --
24 I would go into the room that was taking calls from the
25 public line and I would say "Well, how's it going?",

1 "Well, we have had a huge surge since there was that
2 thing on the news this afternoon; since that thing on
3 the news this afternoon the phones went red hot and
4 people are ringing up, more people saying they want to
5 contribute, make complaints, offer evidence."

6 So part of the strategy of going public at all --
7 and we have seen that in some recent cases in the UK and
8 people say it has been handled well or handled badly
9 there, but part of the strategy is convincing people
10 that this is real, it's happening and that if you've got
11 anything to say now is your chance to come forward and
12 you will be taken seriously, and if we had done the
13 whole thing behind closed doors you wouldn't have got
14 that benefit that we were getting out of it. It got to
15 a point where the benefit -- you think this looks like
16 it is as much as we're going to get -- might not be
17 right about that -- and the whole thing was scaled down.
18 If you go into 2008 the media interest effectively
19 petered out.

20 Q. This is 2008. This is the early part of 2008.

21 A. Well, later into 2008 it just fizzled out almost
22 completely. It just vanished out of the media.

23 Q. Subsequently in the prosecution of three men, Wateridge,
24 Donnelly and Aubin, an application was made by the
25 defence to strike the prosecution out as an abuse of

1 process on the basis that they couldn't have a fair
2 trial as a result of the publicity.

3 A. Yes.

4 Q. I would like you to look at the judgment that was made
5 in that case. Could we have please {WD005903/5} and
6 paragraph 14 and 15 and this is the ruling of the
7 Commissioner on the argument that the case should be
8 struck out and it says about publicity:

9 "We need to be clear what it is that is complained
10 of. The investigation into allegations of historic
11 child sex abuse at Haut de la Garenne was an important
12 story in Jersey and one in which the press has
13 an absolutely proper and legitimate interest. Equally,
14 it is perfectly normal for the Police to keep the press
15 informed of the progress of important inquiries.
16 Sometimes that may be in the form of on the record press
17 conferences, broadcast or published as the case may be,
18 sometimes it may involve off the record briefings, the
19 content of which cannot be used until after any trial.
20 From time to time, the Police may make use of press
21 publicity for operational reasons, for example, in
22 a case like this, to appeal for witnesses and to
23 reassure those potential witnesses that they will be
24 treated sympathetically and in confidence should they
25 come forward. All that is completely usual.

1 "What is extraordinary in this case is the way in
2 which the senior investigating officer, Mr Harper, by
3 constant and dramatic press conferences and informal
4 briefings, whipped up a frenzied interest in the
5 inquiry, not in respect of the solid policework that was
6 being done to investigate the serious allegations of
7 child sex abuse, but in respect of what had turned out
8 to be completely unfounded suggestions of multiple
9 murder and torture in secret cellars under the building.
10 It is not any part of my task to decide whether or not
11 the huge excavation that took place under
12 Haut de la Garenne was justified, I am only concerned
13 with the publicity that followed it. Not surprisingly,
14 the press ran with the story with enthusiasm. I have
15 five volumes of press cuttings full of lurid headlines."

16 He describes one relating to shackles and goes on to
17 discuss an exhibit thought initially to be part of
18 a child's skull:

19 "Unsurprisingly, of particular interest to the press
20 was [this exhibit]. This was a small object found in
21 a place under the building which probably pre-dated the
22 investigation. At first sight, the anthropologist who
23 was present thought this might well be part of a child's
24 skull. Having received that information it was right
25 for the Police to investigate further to see whether it

1 was indeed a child's skull or part of it. What was not
2 right was for Mr Harper immediately to call a press
3 conference to announce that the remains of a child had
4 been discovered. In fact [the exhibit] proved on
5 careful scientific examination not to be part of a skull
6 at all, but by then the idea that children had been
7 tortured and murdered in the in the cellars was firmly
8 lodged in the public consciousness."

9 He then goes on to quote from a media consultant's
10 criticism and we see that in the inset paragraph:

11 "From the outset statements released to the media
12 suggested with the language of certainty that crimes had
13 been committed and that there were many victims. For
14 legal reasons, and in order to manage media coverage and
15 public expectation, more temperate and non-judgmental
16 language would have been more appropriate."

17 There are then specific criticisms. What's your
18 response to that criticism?

19 A. I haven't seen this before --

20 Q. No.

21 A. -- and I wasn't aware even that this hearing was taking
22 place. The bit that I struggle with is where it's said
23 that Lenny Harper made statements which suggested
24 mass -- I think it is on the previous page.

25 Q. It is the bottom of the previous page if we can go back

1 one please.

2 A. Well, where? Can we see it? Will somebody show me
3 where -- "suggestions of multiple murder and ..." yes,
4 okay, well --

5 Q. I think the point being made is that that is what the
6 press reported and it was caused by the press
7 conferences, not that he necessarily said it.

8 A. Well, yes. I mean I think it's important that we have
9 that distinction. I'm still waiting for someone to
10 produce to me the transcript where Lenny Harper says
11 that there are mass murders and multiple bodies buried
12 at Haut de la Garenne.

13 Q. Do you think on reflection more should have been done to
14 correct inaccurate press reporting?

15 A. I think (inaudible) could have been -- yes. Yes of
16 course.

17 THE CHAIR: Could we have silence and respect from the
18 public gallery please while the witness is answering the
19 question.

20 A. It could be done better. Everything can be done better
21 when you look back on it and it's clear that some of the
22 media management caused some difficulties which had to
23 be considered by a court, but in deciding what to say
24 and do, in working through all this key stage of the
25 investigation, in any normal jurisdiction there would be

1 a partnership, there would be a partnership between
2 police and lawyers and the lawyer working full-time on
3 the case.

4 MS MCGAHEY: Had such a partnership existed would that have
5 altered the press releases, do you think?

6 A. I think if we had had a dedicated lawyer from the
7 beginning -- you know, this needed a partnership of two
8 organisations and for most of the part only one of them
9 turned up and we don't have the experience, we didn't
10 have the expertise, we're desperately calling for
11 expertise from the UK and, you know, if this had
12 happened in London or Edinburgh or Manchester there
13 would have been a senior lawyer appointed full-time to
14 the case as part of the top team from the very beginning
15 and we would have had that benefit. We never had that
16 benefit. I mean I have worked in situations where the
17 senior lawyer is appointed within the first two hours.
18 Well, we didn't get it here. People will snipe
19 afterwards, but I would also say "Well, where were you
20 when all this was going on? Where were you at 2 o'clock
21 in the morning when we had to take some tough
22 decisions?" You go back over any case -- and the Court
23 does recognise what he did was convince the world that
24 we were going to take this seriously and that it would
25 be investigated properly and you have to work a lot

1 harder to do that here than you had to do it anywhere
2 else. It's not tough to do it in Manchester or
3 London -- it's still a hard job -- but convincing people
4 here that this was for real and no matter what the
5 politicians said, or no matter what the history, or
6 whatever decision the Law Officers had taken before,
7 this was for real, it was really happening and "Come
8 forward and we will, you know, professionally and with
9 commitment investigate what you've got to say." Now,
10 that took a lot -- you had to go much stronger, much
11 harder to convince people here than you would have had
12 to do anywhere else. I have described that elsewhere as
13 the elephant in the room: everybody knows but nobody
14 believed that this stuff was going to go to court.

15 It is: what you have been through is not perfect
16 and, you know, we're not going to do it, but if anyone
17 wants, pull out any other case that has a similar
18 history and let's at our leisure go line by line through
19 things that have been said and done and we'll find
20 fault. It happens. But you've got here -- and he was
21 doing something and, you know, people who do something
22 get criticised by people who did nothing and there's
23 been plenty of that throughout this. The people who sat
24 on their backsides and did nothing criticised the people
25 who did something.

1 The people who did something were not perfect and
2 that includes me and not everything we did was the best
3 that could have been done, I agree that as well, but at
4 least we were sweating day and night to do something and
5 I just say that -- Lenny will no doubt defend himself,
6 but I'll say that in defence of him. We were trying to
7 do something and we were working hard to do it and we
8 were doing it without the basic requirement that such
9 an investigation should have, a dedicated senior lawyer,
10 part of the top team being there when the decisions were
11 taken, which I have had in other places and I never had
12 here.

13 Q. Could you go on to the next page of the judgment please
14 {WD005903/6}. You make the point that the Court
15 recognised the legitimate aspects of what was being done
16 and it's right to read that out. If you look at
17 paragraph 16:

18 "It is very important to be clear why Mr Harper's
19 conduct has been criticised in court and elsewhere. He
20 is to be commended and not criticised for taking the
21 allegations of child sex abuse seriously, for
22 investigating them vigorously, and for making clear that
23 anybody coming forward to give evidence would be treated
24 sympathetically and professionally. No proper criticism
25 of him could be advanced for any of that."

1 And then at that point the Commissioner goes on to
2 quote from the media report, but you're right, that was
3 recognised.

4 Moving to the question of the partnership that you
5 say should have existed, it's right, isn't it, that
6 the Attorney was involved at quite an early stage and
7 I think you have seen this morning his notes of various
8 telephone conversations and meetings with you and
9 Mr Harper?

10 A. Yes, and they are revealing. The notes -- I have seen
11 a number of disclosures and we can talk about them at
12 leisure. I will just make a general comment now: they
13 are thoroughly revealing in the sense that months into
14 this investigation, possibly a year since the initial
15 investigation started, there is a debate going on about
16 the chain of command in the Law Officers' Department,
17 who is responsible for advising the Police and who is
18 taking decisions and I have seen notes disclosed to me
19 which indicate even a debate between lawyers about who
20 is doing what and who is taking responsibility taking
21 place a year into this investigation. And it also
22 records my repeated pleas to the Attorney General, "This
23 needs a dedicated independent lawyer with delegated
24 authority who is part of the team, not only to -- but
25 we're going to make mistakes if we don't have it, it

1 could go wrong if we don't have it. This arrangement is
2 not working, the arrangement you have imposed."

3 Q. Can we -- sorry, I didn't mean to interrupt you.

4 A. I was going to -- does it help if I give an example of
5 what happened, a brief example in another place, another
6 circumstances?

7 When I was assistant chief constable in Edinburgh
8 I went to the morning meeting at 9 o'clock and my
9 colleague who was assistant chief constable of
10 operations said "There has been a murder during the
11 night, it is in a common stair of a tenement, there was
12 a party, a disturbance in the stair, somebody has been
13 stabbed to death, it happened at 2 o'clock in the
14 morning. Assailants have run off". He then went on to
15 say that just over an hour later, just after 3 o'clock,
16 the senior detective and the senior lawyer had had
17 a meeting at the scene, out of their beds at 3 o'clock
18 in the morning, at the scene, meeting and agreeing the
19 initial actions and agreeing to meet later in the day to
20 talk about the state of progress. I contrast that with
21 notes I have seen from the Law Officers' Department
22 which nearly a year into this thing are still talking
23 about "Which one of us is going to give advice to
24 the Police, is it you or is it me?"

25 Q. Can we look at the notes you have seen and can we go

1 please to {WD008198/5}. This is a telephone
2 conversation between you and William Bailhache. It is
3 his note of the conversation and I know you have had
4 an opportunity to look through it this morning.

5 A. I looked at it this morning. When I made those earlier
6 comments I'm referring to some disclosures I got a week
7 or two ago which I think make the point a bit more
8 clearly, but I will leave it to you.

9 Q. And he says, either he or you:

10 "Spoke to a number of people in abuse enquiries.
11 Unconfirmed stories about bodies being buried."

12 Then I think it is probably you telling him about
13 what's been reported so far about locating a bricked up
14 cellar, going into it today and a dog. I think when he
15 says "you" he is saying what you told him.

16 A. Yes, it might be.

17 Q. And so the cellar is a crime scene and that you have all
18 the records of the home. Then he says:

19 "I asked if you needed lawyer attached to enquiry at
20 this stage. You will discuss with Lenny."

21 A. Yes.

22 Q. Do you remember that being offered?

23 A. No, no. I don't remember that. I'm not saying it's not
24 true, I just don't remember it. I had a good deal of
25 subsequent -- well, I had that discussion and I know

1 what I went back with and it's documented subsequently:

2 "We want a full-time dedicated lawyer, preferably an
3 independent lawyer from the UK who has none of the
4 baggage of history associated with them who will be part
5 of a top team and totally dedicated" -- I know I said
6 it, it's true.

7 Q. What I would like to do is take things in order so we
8 get a sense of the chronology of what happened.

9 A. Okay.

10 Q. And then:

11 "It seems reasonably clear that speedy progress in
12 relation to the murder enquiry is unlikely. The abuse
13 enquiry can't be separated from it."

14 So at that stage in February were you describing
15 events as a murder enquiry?

16 A. No, that's just a mistake. It will be an honest
17 mistake, because we have had to go through some process
18 ourselves today, haven't we, to talk about the
19 difference between preserving a potential homicide scene
20 and actually starting a murder inquiry. There is no
21 doubt there is no murder inquiry because I had disclosed
22 the policy log and other documents which say very
23 clearly "We are not going to have a homicide inquiry in
24 relation to it." There was no argument about it. So
25 I wouldn't -- it's just a bit of confusion.

1 Q. In fairness to you it isn't actually clear from that
2 note whether you used the words "murder inquiry" or he
3 did.

4 A. No, I would have corrected him. Well, I don't know,
5 I just know that I knew there wasn't a murder inquiry,
6 yes.

7 Q. Then a few days later on 4 March, same page, you see
8 that he is making notes in preparation for a meeting
9 with you and Lenny Harper. We don't have the minutes of
10 the meeting. From these notes which you have had a look
11 at, does that bring back any recollection of the
12 meeting?

13 A. No. I mean the subsequent meeting, no. No.

14 Q. So do you remember any meeting with the Attorney about
15 media handling?

16 A. Yes, that -- and I have seen -- we would have
17 conversations about it and some of them it appears were
18 recorded and I have seen -- notes were taken and I have
19 seen some of those notes and he would express concern
20 and we would go through the usual -- "We're trying to
21 put out an accurate picture and this is what appears in
22 the media which is entirely different. We are getting
23 people coming forward in response to the publicity, but
24 we will take what you say, we need to scale this down
25 and encourage the media to stop speculating", and we did

1 it. Remember that: it happened. They all went home and
2 all the reporting stopped.

3 Q. But this is 4 March, so it is really quite an early
4 stage --

5 A. Yes, it is.

6 Q. -- and the publicity is really at its height.

7 A. It's at its height, yes.

8 Q. And assuming, and we will have to ask him, that he said
9 what he said he was going to in this note:

10 "Purpose of meeting is to address future media
11 handling.

12 "Background is that in my view the consequence of
13 the media reporting to date is that we will inevitably
14 face abuse arguments on basis a fair trial is
15 impossible. I think we can probably head that off,
16 especially if there is a delay until trial, but we must
17 inevitably go back on what has been released so far and
18 published so far to inform what is likely to happen in
19 the future.

20 "Fair trial arguments can lead to major
21 constitutional problems ..."

22 Then he goes on to say:

23 "Daily reports have stopped."

24 I'm not sure whether he means reports to him or
25 possibly reports to the media:

1 "I want to see the strategy in future and be
2 consulted. There is no operational purpose in a police
3 investigation if I can't prosecute, so I have a direct
4 interest."

5 Then he goes through examples of what he says has
6 caused problems and then the next bullet point:

7 "I am sure the ACPO media advisors can produce
8 answers to all of this stuff, but in my judgment the
9 media circus which has been generated has already
10 damaged the prosecution in sense we may face abuse
11 claims, and if we do not improve the handling in the
12 future it is perhaps even [more] likely to do so in
13 a more serious way."

14 So do you remember at this stage, it is only a few
15 days after the announcement about the skull,
16 a discussion with the Attorney saying "We have really
17 got to do something about this"?

18 A. Yes, we've got to scale -- it rings a bell. It is not
19 a precise recollection. But yes, that's right: "We need
20 to start scaling it down."

21 Q. And was anything done to scale it down straight away?

22 A. Yes, yes. My recollection is -- we weren't -- we had
23 a very capable person from within the Force who was
24 working on media management, but she was just
25 overwhelmed by -- it was just too big and too much

1 happening and too much noise and too many phones
2 ringing, it was just terrible, and so I remember we got
3 in some support from the UK in terms of media
4 management. I can't remember what it was, but we got
5 people who had experience to beef up that side of the
6 operation and we discussed how we would incrementally
7 reduce the amount of information going to the media to
8 a point where it tapered off and the thing died out,
9 which it did. That's as much as I remember.

10 Q. He gave there the example:

11 "Mention of a piece of skull leads inexorably to the
12 press reports of whole carcasses ..."

13 Aren't you going to get a similar risk if you talk
14 about bloodstained items, that you will get melodramatic
15 reporting of what has been found?

16 A. There is also a risk in saying nothing and keeping it
17 secret as well, that you get speculation, ill-informed
18 speculation as to what you have found. I mean I had
19 walked around the scene and I had seen long range
20 microphone phones pointing at me when I'm having what
21 I thought were private conversations -- from houses, not
22 from the main press area. You know, we found -- the
23 whole thing was secret and unleased, and we intended to
24 do a dig at Haut de la Garenne in secret and we turned
25 up to do it and there was a News of the World

1 photographer hiding in the bushes. He knew about it
2 before most of the cops who were going to the scene. He
3 had had enough time to get on a plane and come to Jersey
4 and be hiding in the bushes.

5 You know, what you know now about media behaviour at
6 that time, you just wonder whether our communications
7 were secure or whatever, but the fact is there's some
8 instances they seemed to know before we did. They knew
9 something significant had been found. And so you say
10 nothing or you say something and the decision was to say
11 something. It might have been that a decision could
12 have been different if we had had that effective working
13 partnership that every other inquiry of this kind would
14 have had, not somebody sitting in their office during
15 the day saying "I have seen this in the papers and I'm
16 a bit worried about it", somebody actually with their
17 wellingtons on, out in the dark, being there and present
18 and being part of a top team.

19 Q. In fairness to the Attorney it does seem on 21 February
20 that a lawyer attached to the inquiry was offered?

21 A. Yes, it was, and we said yes.

22 Q. Then he said he's discuss it with Lenny Harper and came
23 back and said yes.

24 A. He said yes, and then if you go to -- I have said --
25 there is no doubt that somewhere the Attorney General

1 Unfortunately, as with all email chains, you have to
2 start at the bottom and then work backwards, so this is
3 an email sent by Bill Ogleby on 26 February to
4 William Bailhache, the Attorney, to you and he says he
5 is:

6 "... extremely worried and would welcome your
7 thoughts Yesterday afternoon I had persuaded Frank
8 [that's Frank Walker] that he should make no further
9 comment on this matter until the investigation is at
10 an appropriate stage. Certainly not in the near future.
11 He was not happy but agreed to follow this line."

12 Then Mr Ogleby goes on:

13 "Late last night he phoned me in a state of anxiety
14 and stated that he would not be willing to follow that
15 line. He told me that friends and contacts have been
16 telling him how badly this is effecting people and
17 particularly their self-confidence in our Island. He
18 has effectively instructed me to plan and implement
19 a communication campaign to try and counter the negative
20 publicity that the investigation and Stuart [presumably
21 Stuart Syvret] are generating. You may think he is
22 right in which case please tell me."

23 He says he thinks he is wrong.

24 "Here is my personal view. I am of the personal
25 belief that bad things have happened and that until we

1 get to the bottom of all of the events and circumstances
2 surrounding them we cannot and should not say anything.
3 The only way to get to the bottom of it is to let
4 the Police enquiry run its course and ensure that any
5 prosecutions are successful. It seems to me that
6 continued political debate and publicity, particularly
7 between Frank and Stuart, will only fan the flames of
8 speculation and there will be only one loser, Jersey.
9 Stuart is entirely committed to make the headlines and
10 undermine the Government and it seems to me that he is
11 so fixated that he may even take actions which undermine
12 either the investigations or any prosecutions."

13 Then he says there is a risk it could even interfere
14 with fair trials.

15 "If Frank finally instructs me to mount a campaign
16 I may ultimately have no option but to do so.
17 Alternatively if people like yourselves advise me that
18 I am wrong then I will take that advice very seriously
19 and probably act upon it."

20 Then he makes a suggestion that:

21 "Frank makes his statement in the House and does say
22 that he will make no further comment on anything to do
23 with this investigation."

24 And then:

25 "The three of us ..."

1 That's you, the Chief Executive and the Attorney:

2 " ... hold a press conference at lunchtime at which
3 we explain why it is in no one's interest for there to
4 be continued press and media speculation around this
5 case, other than of course the normal level of coverage
6 of a major police investigation."

7 And the three of you would explain the risk of:

8 "... creating the conditions where a fair trial
9 becomes impossible and explain why only the Police
10 enquiry and any subsequent prosecutions will properly
11 explain what happened in the past."

12 He goes on to make other suggestions about
13 publicising helplines:

14 "From then on there would be no political comment
15 from the Government on anything to do with the
16 investigation. I would however organise an appropriate
17 communication structure aimed at reassuring people about
18 current services and structures of governance."

19 So he is asking for advice and then if we go back
20 a page {WD007170/331} we see your response. You see
21 that at the top of the page?

22 A. Yes.

23 Q. You say that:

24 "I am perhaps not best placed to assess reputational
25 matters ..."

1 Then you make the point that various potential
2 victims of abuse have been made willing to come forward
3 and you also say that nothing is going to make the media
4 desist whatever you do and:

5 "If we do not provide facts then they will invent
6 fiction."

7 Then you go to the core of the question, which is:

8 " ... the suggestion that we three should appear
9 together in a press conference. You will know that we
10 have and continue to work hard to ensure that the Police
11 media strategy for this inquiry is managed in a way
12 which does not set us against government. However, my
13 feeling about what you propose is that we reinforce
14 remaining suspicions that we are all part of a senior
15 'club' as opposed to what I see as the correct
16 situation, which is that we each head separate entities
17 which are powerful in their own way but are controlled
18 by a system of checks and balances."

19 So you say that you don't want a public display of
20 a team approach:

21 "I do not give political advice but I am experienced
22 in media management in a crisis. One of the key rules
23 is to try to find a way to take the high ground and stop
24 'reacting' to the latest attack. A positive moral and
25 statesmanlike stance which rises above political

1 squabbles may be of benefit."

2 You then comment that what Frank Walker is doing is
3 perhaps not helpful and you comment on the
4 inconsistencies in his position.

5 First of all is it clear from Bill Ogley's email
6 that certainly at that stage he was right behind
7 the police investigation?

8 A. Yes, that's what he's saying and, yes -- I mean Bill was
9 in a very difficult position. He's clever enough to see
10 that there's a need for an investigation to go ahead but
11 he's also a mouthpiece and a representative of the
12 Council of Ministers and he knows full well what the
13 pressure was behind him. Nobody is all good and all bad
14 in this and Bill Ogley did a lot of good things as part
15 of this wider investigation and trying to -- I suppose
16 you've got to say is it right to say control direct --
17 Frank Walker was doing terribly badly in the media and
18 people who talk about the media circus and the frenzy
19 tend to focus on the Police, but, you know, I would just
20 invite some consideration of the attention that Frank
21 was sometimes bringing to the Island and to himself and
22 the reputational damage that was coming out of it.

23 Yes, I mean it's -- well, we're all struggling to
24 know what to do next, aren't we? There's nothing
25 I think maliciously implied in Bill Ogley's suggestion

1 that -- it's well intended, but I didn't fancy it.

2 I could see that -- you try to sit there as three wise
3 men facing the media, then all of a sudden you get asked
4 questions and one says something and I think "No,
5 I don't think I quite agree with that", you know, it
6 demolished the notion of constabulary and independence.

7 I wasn't happy. It says what it says. This is
8 a really rushed job, like a lot of things. It was done
9 in five minutes on the first thing that came into my
10 head as some things had to be done in those particular
11 times.

12 Q. But you made clear that the Police were going to stay
13 independent of any apparent political --

14 A. We had to position ourselves in that way. No matter how
15 hard we were working behind the scenes to try and smooth
16 out difficulties, you had to project to the outside
17 world that we were really independent in that inquiry.

18 Q. In his email to you -- and we can go back to it if we go
19 back a page please {WD007170/332} -- Mr Ogleby says
20 "there will only be one loser, Jersey". That's in the
21 second big paragraph. Do you see the one that starts
22 "Here is my personal view ..."?

23 A. Yes.

24 Q. Then about halfway down:

25 " ... Frank and Stuart will only fan the flames of

1 speculation and there will only be one loser, Jersey."

2 What did you take him to mean by that?

3 A. The debate between Frank and Stuart was a media circus
4 in its own right and it was better closed down. Stuart
5 was making strong allegations of long systematic
6 covering up of abuse with establishment having a role in
7 that. Frank responded to it very badly. He never
8 seemed to be able to say the right things, or project
9 the right image and I mean it's just right, it was
10 a noisy distraction that we all could have done without.

11 Q. In your response you replied that you were experienced
12 in media management in a crisis.

13 A. Yes.

14 Q. Where did your experience come from?

15 A. Well, I have been in situations where things have
16 clearly gone -- and I meant that in a defensive -- in
17 the type of situation that Bill and the Government found
18 themselves in. They were on the back foot. I'm not
19 talking about in a major investigation, but the best
20 example -- you find yourself having to defend the
21 indefensible, or explain things that have gone horribly
22 wrong. I did once, on one occasion, find myself --
23 I was given the lead -- I don't -- well, I was given the
24 lead by a chief constable at the time when we were in
25 Edinburgh to handle the fallout from an awful -- it was

1 about rentboys and judges actually. A part of the
2 police buildings that we were occupying at the time were
3 broken into and some files were taken in which there
4 were some documents which were highly speculative about
5 corruption in the judicial establishment and the
6 allegations weren't evidenced, but there again they had
7 been kept in a draw and hadn't been looked at properly
8 as well and we were at fault in all sorts of ways, we
9 were at fault for getting the break in, we were at fault
10 for having these things on paper that we hadn't properly
11 addressed -- people had just mishandled the whole thing,
12 and I was unconnected with any of it, but was given the
13 job of taking -- putting the wheels back on in that
14 sense.

15 Q. And did you deal with the media?

16 A. Yes, sometimes, but I employed straightaway a senior
17 media consultant, somebody very experienced, and
18 a lawyer, and so I had a lawyer and a senior media
19 consultant; I was very well guided. I didn't do a lot
20 of personal talking but what I did was manage the
21 response in terms of what we said and what we're going
22 to do -- you know: do stuff, don't talk about it and so
23 we did lots of things and worked in partnership with the
24 other agencies involved and eventually we had an inquiry
25 set up by the Crown with two senior lawyers and

1 I supported them as a police professional and we went
2 through it all and got it back together, got to the
3 bottom of it all and put it right.

4 Q. And was your view in this case that there should be no
5 joint conference with you, and William Bailhache and
6 William Ogley accepted?

7 A. Well I think it was accepted I wasn't going to do it.
8 Whether they thought I was right in saying I wasn't
9 going to do it I don't know.

10 Q. But it didn't happen?

11 A. Yes -- I mean I am open to anyone who thinks I'm wrong,
12 step forward, I just thought: no, I don't think that's
13 going to work, I think it's going to make things worse,
14 it's not going to make things better. If I thought it
15 was going to make things better, I would have done it.
16 I thought it was going to make things worse.

17 Q. Could you go on then please to another document, I think
18 it is one you referred to earlier that involves
19 Mr Shenton, {WD008204/4} please. Again we need to start
20 at the bottom of the page because this is an email from
21 Mr Shenton on 2 March 2008 and then if you go over the
22 page to page 2 please {WD008204/5}, is this the email
23 you had in mind in which he makes a number of criticisms
24 of the recent press releases?

25 A. Yes, yes.

1 Q. And he raised a number of queries and asks Wendy Kinnard
2 why she has allowed her ministry to be run in "such
3 an unprofessional and shameful manner" and what he says
4 is that the items that have been found aren't evidence
5 of criminality and asks "What on earth is going on?"

6 A. Yes, fairly typical of the sort of challenges that were
7 coming at the time, yes.

8 Q. Then we go to page 3 {WD008204/6} please.

9 A. There is a sub-text to that which is a lot of people and
10 I suspect Shenton -- well, he more or less says he is
11 one of them -- didn't think Wendy was up to the job of
12 being a minister, so there is an attack on her
13 ministerial competence in there, that's part of it.

14 Q. And you then report this to the Chief Minister.

15 A. Yes.

16 Q. It is to the Chief Minister, although his name has been
17 blanked out and we know this because you start
18 "Chief Minister", copied to the Attorney, and first you
19 express gratitude for his support:

20 "As you know we are now dealing with over 160
21 victims, many of whom give credible accounts of horrific
22 physical and sexual abuse at the hands of persons who
23 had responsibility for their welfare."

24 A. Yes. I made that point just in case anyone had
25 forgotten, yes.

1 Q. "We have robustly stated that there is no evidence of
2 a 'government cover-up' but there will undoubtedly be
3 some difficult questions for some people who have held
4 positions of authority."

5 You say there you then became aware of an email
6 circulated by the Health Minister. I think that is
7 Mr Shenton's email.

8 A. Yes.

9 Q. And you say:

10 "It is defamatory, inaccurate, and most seriously is
11 capable of being read as an attempt to undermine the
12 investigation."

13 And you say:

14 "I feel that as Chief Officer of Police it is now
15 the time for me to state clearly that this type of
16 interference should cease. On a daily basis we are
17 asked if there has been any political interference in
18 the case. Yesterday we said 'no'. It was probable that
19 tomorrow we will still be able to justify saying 'no'.
20 However, if there are any more actions of this nature
21 which appear to me intended to undermine the
22 investigation or its key participants I will regard that
23 as unacceptable and consequences will follow. I will
24 not rehearse here the options open to the Force in such
25 circumstances but they should be obvious enough. I hope

1 that as Chief Minister you will feel able to take
2 action ..."

3 Then you reassure him that the investigation is
4 being monitored by Andy Baker from SOCA.

5 A. Yes. I would go further than that. In the last
6 paragraph what I did there -- we had Andy Baker and
7 these experts from the UK. I make an offer there which
8 I follow through which is "Don't let me tell you what
9 they're saying, if you want to meet with these people
10 and I will not be in the room and you want to ask them
11 about the investigation with nobody present other than
12 them, you can do it" and I fixed it and it happened.
13 And if the ministers had come out of that meeting saying
14 "Well, we have spoken to these UK experts and they're
15 saying you're making a complete mess of it", I would
16 have said "Thanks for telling me" and we could have done
17 something about that, but that didn't happen. In case
18 it gets missed later, I make that point, I'm clearly
19 offering there that "You can talk direct to these UK
20 experts if you want to", yes.

21 Q. You are also asking his assistance to stop any political
22 interference.

23 A. Yes.

24 Q. You say that any more will lead to consequences
25 following but you don't spell them out. What were the

1 consequences you had in mind?

2 A. Well, the first one is set out clear enough. I mean
3 everyone remembered that every day we got asked the
4 question -- you've got to remember the suspicions about
5 the integrity of the government and the criminal
6 justice system weren't just abundant in the Island, they
7 were to some extent international and a day did not pass
8 that we were not asked "Are you really free to
9 investigate this Inquiry? Are you getting any political
10 interference? Do you think you have the support of the
11 Law Officers? Do you believe any cases" -- these were
12 routine journalist questions we were getting and we
13 would say "No, we are not getting political
14 interference, yes we are sure that" -- and so on. What
15 I'm saying to Frank there is "I'm not going to tell lies
16 on your behalf. If this doesn't stop and I'm asked 'Are
17 you getting political interference?' I will say
18 "Yes I am", and you're going to have to live with that.
19 That's one of the consequences.

20 Q. Did you have any others in mind?

21 A. Yes, and I'm not very sure how I would have -- at some
22 stage I might have put my hat on and gone to
23 Government House and spoken to the Queen's
24 representative if I really felt -- I'm not the sort of
25 person that would be likely to do that. I consume my

1 own smoke, solve my own problems, but if things got to
2 a point where I just couldn't control it any more, when
3 it was so extreme and so blatant that I felt the whole
4 thing was being compromised, yes, I would have done
5 that.

6 Q. Could we go then to page 1 of {WD008204/4} and this is
7 your reply. What happens is Wendy Kinnard has forwarded
8 Ben Shenton's email to you and you have then given your
9 answer to the points that he makes and essentially what
10 you say is that you haven't made the explicit or other
11 lurid claims that he says have been made.

12 A. Yes, yes. I mean without going through the whole
13 history of it again -- I mean that's true. What I say
14 there is -- that's what I said, the email is accurate.
15 Yes, yes.

16 Q. You make the point again that "there is a need to see
17 the difference between what the media are saying and
18 what we are saying to the media".

19 A. Yes, two different things.

20 Q. Could we look next then please at {WD007282}. This is
21 from Wendy Kinnard to you and she is saying:

22 "At lunchtime the Attorney sent round ...
23 an extremely sensible email to the Council telling them
24 that they should allow the investigation to take its
25 course. He made it clear that this was not the time to

1 have any more public comments or spats about why things
2 have happened as they have."

3 A. Yes.

4 Q. In fact we're going backwards because it explains the
5 chain, but before that -- or you hadn't seen what
6 the Attorney had said, you said:

7 "I think that I now need to give the Force a 'line'
8 on political inquiries. It is 'While the Force will
9 seek to respond to political enquiries which fall within
10 the general framework of accountability we cannot get
11 drawn into matters which are not appropriate for
12 discussion at this time and which may relate to a future
13 criminal trial. In particular we will not respond to
14 inquiries which appear, whether intentionally or
15 otherwise, to seek to discover lines of inquiry or the
16 strength of evidence' ..."

17 And you have told your staff that.

18 A. Yes, because if you look at Shenton's email not only is
19 it challenging and aggressive and disruptive, it is
20 probing, it's trying to in some way discover the
21 strength of evidence of particular lines of inquiry and
22 I definitely wasn't comfortable with that.

23 Q. And in fact you have sent an earlier email to
24 Wendy Kinnard making that point:

25 "I think you are right to seek to close down the

1 discussion. We cannot continue to be diverted by
2 questions which sometimes seem more directed at the
3 discovery of lines of inquiry and the strength of
4 evidence rather than genuine political interest. If
5 ministers have concerns regarding the direction of the
6 inquiry then they should seek independent expert advice.
7 As it is we have foreseen this requirement and this
8 advice has been obtained. We should try to hold this
9 line and not get drawn into points of detail."

10 That expert advice was through Andy Baker and the
11 ACPO team, wasn't it?

12 A. Yes. Again it emphasised a point I suppose in my mind.
13 You get these inquiries and I was entitled to think
14 "Just what is it that you're trying to find out by
15 asking these questions?"

16 Q. Did you ever find an answer to that?

17 A. No -- well, not without seeing more detail of the
18 investigation than I have had contact with, but you're
19 entitled to be -- I suppose if it you're a policeman you
20 tend to be suspicious about a lot of things, but I was
21 suspicious about some of these lines of inquiry. You're
22 trying to discover the strength -- you're wanting to see
23 our hand.

24 Q. And your response to that was to close down those lines
25 of inquiry and stop --

1 A. "We're not going to talk to you, we're not going to talk
2 to you about that." Legitimate accountability is fine
3 but ...

4 Q. Could we have the next page {WD007282/10}.

5 This is further comments from Ben Shenton. On the
6 next page please {WD007282/11} she provides him there
7 with your response and after that did you receive any
8 further inquiries from Ben Shenton?

9 A. I'm not sure. There's none that I recall I think is the
10 safe answer to that.

11 Q. Could you go on then please to {WD007534/16}. We're
12 trying to take this roughly in order. We have now got
13 to 18 April 2008 and if we could again start at the
14 bottom, it's 17 April. You're writing to the Attorney
15 about legal support:

16 "William. Thank you for the helpful way in which
17 you have approached this. Following a number of
18 discussions I can report as follows which I hope will
19 assist in moving things forward.

20 "1. We were interested in your earlier suggestion
21 that a lawyer, possibly from the UK, with a specialist
22 background in this type of work might be made available.

23 "2. It is agreed that the inquiry has now reached
24 a point where full-time legal support is appropriate.

25 "3. In order that regular meetings and

1 consultations can be arranged it would be sensible for
2 suitable accommodation to be found within Police
3 Headquarters ..."

4 Although there might be a problem with space. Then
5 next page {WD007534/17}:

6 "4. Legal advice and support is most valuable at
7 a strategic level, and we would seek to establish
8 an arrangement which ensured that the person was not
9 distracted by the clutter of day-to-day operational
10 matters.

11 "5. When such an arrangement has been in place for
12 a while we can review how it is working and if anything
13 needs to change."

14 Then if we go back please we see the response
15 {WD007534/16} and he says that he has agreed:

16 " ... with Crown Advocate Baker that he will make
17 arrangements for Mr Simon Thomas, a barrister from
18 7 Bedford Row, to attend at Police Headquarters. He has
19 experience of child abuse cases and also has the
20 confidence of the team of Crown Advocates Baker and
21 Whelan, which is an important factor. I shall ask him
22 to ask for you in the first instance, unless you would
23 rather he sees someone else first."

24 Then practical arrangements.

25 "I understand the view that he should not have

1 a desk actually in the operational incident room, though
2 it would obviously be useful if he could be nearby and
3 could have access to it. If the secondment is to be
4 useful, then he must feel part of the team working down
5 there.

6 "I think that strategic level support is indeed very
7 important ... Simon can be expected not to interfere
8 with the operational decisions which the members of the
9 investigating team think are necessary, though obviously
10 I hope his input in those discussions will be useful to
11 you. The truth is that one cannot get into strategic
12 decisions without having a fair grasp of detail as to
13 what is actually happening in the individual cases."

14 So it does look from those exchanges, doesn't it,
15 that it wasn't until the middle of April that you took
16 up the Attorney's offer to have a lawyer?

17 A. Hang on, no, that was when he made the offer in response
18 to what I believe to be repeated requests before then.
19 I was saying "Thank you for your" -- I'm being polite
20 "Thank you for your offer", I don't say "I would have
21 been grateful if you made it two months earlier when
22 I first asked."

23 Q. He made the offer on 25 February, didn't he, and you
24 said you would consult Lenny Harper?

25 A. Yes, right.

1 Q. Now, it may be that there are other documents that we
2 haven't found, but the next one that we have is 17 April
3 and you're thanking him -- you say you are "interested
4 in your earlier suggestion that a lawyer, possibly from
5 the UK ... might be made available"?

6 A. Yes, okay. Well, I came -- the first -- I went straight
7 back to him and the conversation -- it's not documented,
8 all right, but I didn't spend two months -- or didn't
9 spend from whenever it was to thinking about the offer
10 of a lawyer. I made it clear from the very beginning
11 that that was what we wanted and I'm thanking him for --
12 I'm trying not to say "Well thank you for responding to
13 what I said earlier", I'm saying "Thank you for your
14 offer". I'm trying to build bridges.

15 Q. I should also say that from 25 February we have just
16 a note that a lawyer was offered. It does seem that
17 there must have been some intermediate conversation
18 about whether it should be someone from a UK and
19 possibly with a specialist background.

20 A. There was intermediate conversations and he had
21 reflected on it and it was his response. It moved too
22 slowly but it moved and you see what I'm trying to do.
23 Anybody criticise that, I just think it's a proper
24 response to say "Let's get started."

25 Q. And it looks as though things did move then very swiftly

1 because once you said yes you were told that Mr Thomson
2 as was going to be on the Island on Monday.

3 A. Yes, it's all looking good.

4 Q. So at that point anyway there seemed to be good
5 cooperation between the Attorney General's Office and
6 the Rectangle investigation.

7 A. I was quite upbeat at that point, I thought we're going
8 to get a proper structure in place at last. It's going
9 to happen. Yes.

10 Q. Could we move on please to {WD007174/2}. At the bottom
11 this is the press release of 18 April that we read out
12 earlier and if we go -- I won't read it out all over
13 again, but if we go one page further on {WD007174/3} --
14 I read it out this morning, it says at the end that one
15 reason for not pursuing a pointless homicide
16 investigation are the financial implications of doing
17 so.

18 A. Yes.

19 Q. Could we go back a page {WD007174/2} and Bill Ogley
20 writes to you and the Attorney saying he is concerned
21 about the final paragraph referring to the huge
22 financial implications and he thinks it is a mistake:

23 "The Council of Ministers has said that they are
24 completely committed to supporting the Police inquiry
25 and that the necessary resources will be provided. Thus

1 the financial implications are irrelevant here, the
2 issue is how is justice best served? Should the
3 investigation continue or not.

4 "Personally I think there is a risk that detractors
5 will use this to question the commitment or in some
6 other way try to undermine the Island's reputation, or
7 even the SOJ Police."

8 And:

9 " ... you will both want to take a view about how
10 the Island's reputation for upholding justice is
11 portrayed."

12 At that stage did that reflect Bill Ogley and the
13 Council of Ministers' commitment to backing Rectangle?

14 A. I think they're worried that the last bit of a release
15 would be spun against them, that we're closing that line
16 of inquiry because they won't give us money. I mean
17 that would be a creative interpretation of it, but it's
18 still a possible one. It also encapsulates part of
19 a problem that we had in proper management of the
20 inquiry, maintaining rigorous ringfencing, financial
21 accountability, value for money. The ministers and most
22 frequently Frank Walker would issue "Money is no object"
23 type of statements which we would then have to correct
24 and say no, we're actually -- there are financial
25 restraints here we have to consider.

1 But yes, they're certainly saying the right words
2 publicly, but I run alongside that of course -- I had to
3 listen to what Wendy was saying which was "Whatever
4 they're saying publicly they're saying something else in
5 private", but I'm not critical. That's a perfectly
6 legitimate, proper -- and I suppose there was a bit
7 of -- you know, Bill Ogley was trying at that time to do
8 a balancing act and trying to do his best.

9 Q. Okay. If we go back to page 1 please {WD007174/1} we
10 see your response at the bottom of the page:

11 "Bill. I do understand your point but the comment
12 needs to be put in the context of the policy framework
13 governing the inquiry. We are grateful for the support
14 of the Government but as managers of the investigation
15 wish to see this support focused on those lines of
16 inquiry which the leadership of the investigation has
17 identified as priorities at this time. As with other
18 major inquiries ... there is a need for firm
19 'ringfencing' of what is to be investigated."

20 You point out that there are lots of other tangents
21 you could go off on.

22 "We are concentrating on the abuse of children by
23 persons living where the initial investigation indicates
24 that there is a reasonable prospect of obtaining
25 evidence which can result in a conviction. Our

1 inquiries at HDLG are directed towards this end, hence
2 our greater interest in forensic finds at locations
3 which living victims have alleged are the scene of abuse
4 by living suspects than the piece of skull which,
5 whatever its history, will in itself put nobody in the
6 dock."

7 You say:

8 "The financial support available is focused on this
9 end."

10 Claims of known victims against known suspects. You
11 then advise him not to worry about the media reaction.

12 A. Yes, we would deal with it.

13 Q. Was your view accepted by Mr Ogley?

14 A. I think it -- I think it went quiet. I can't remember
15 a reply, but it just became okay after that, it stopped
16 being an issue.

17 Q. I would like to go back now to the workings of
18 Operation Rectangle itself, and I understand that your
19 direct involvement was limited --

20 A. Yes.

21 Q. -- but could you go back please to the statement at
22 page 82 {WS000536/82} and paragraph 273. You're dealing
23 there with the question as to whether the search of
24 Haut de la Garenne was justified because it was really
25 that search, wasn't it, that led to a massive explosion

1 in publicity?

2 A. Yes, it did, yes.

3 Q. And you say:

4 "It has at some stage been suggested to me that we
5 could have avoided having to search HDLG at all.

6 I think that this is unrealistic ... we were attempting
7 to mop up rumours, reports and allegations which had
8 been circulating for decades ... Operation Rectangle was
9 the chance to bring closure to a long-running saga. The
10 only way to do this was to be in a position to say that
11 every line of inquiry had been pursued and there was
12 nothing else to do. If we had not searched HDLG when we
13 did then it would have become necessary for it to be
14 searched at a later date and in the intervening period
15 the allegations of cover-up and conspiracy would have
16 grown more complex and taken a stronger hold in the
17 beliefs of the community. I am sure that we were right
18 to undertake the search at HDLG."

19 A. Yes.

20 Q. So in your view was there sufficient evidence to justify
21 the search of Haut de la Garenne?

22 A. I don't -- I haven't read all the statements or seen all
23 of the evidence, so in general terms I would say that
24 people said things -- and there is a report of some
25 earlier finding of bones I seem to remember -- people

1 were saying things which indicated that there might be
2 something to find at Haut de la Garenne. I don't know
3 how you could conclude this inquiry amongst those
4 statements and allegations that there was possible
5 evidence of murder or whatever at Haut de la Garenne and
6 say "Well, we didn't actually look because we thought we
7 might generate too much publicity, or spend too much" --
8 you couldn't say that. If we hadn't dug up the floor
9 when we did someone else would have had to dig it up
10 years later. This is not going to go to bed unless you
11 have dug up the floor at Haut de la Garenne and see what
12 you find and I suppose the first -- the first impression
13 I had was that we were going to dig up the part of the
14 floor where somebody said they had seen what looked like
15 child's remains some years before and we did that and
16 not a lot was found, but there was some forensic work
17 involving a specialist dog and also some samples were
18 taken and some radar, as I recall, which led to believe
19 there were other areas which, as investigators, we ought
20 to look at.

21 It took a long time to get to the point where you
22 could walk away from that scene. No sooner did you
23 clear one section than someone would find a trace of
24 blood somewhere else and the implication was if you
25 looked a bit harder you might find something more. You

1 know, finding nothing is a result, it's a success, it
2 brings an end to that line of inquiry. And as it was of
3 course we didn't find entirely nothing, what we found --
4 I don't have all the detail in front of me, but we found
5 enough to make people feel that something was suspicious
6 about what we were finding, but not enough to be
7 conclusive that you could say that there had been
8 murders or disposal of a body. In the end for all our
9 work it was inconclusive, that's my call of the outcome.

10 Yes, I'm sure it should have been done, but
11 I understand people who say -- look at it without --
12 I mean people will say that I shouldn't have looked at
13 it in the context of all of the history and the baggage
14 and the controversy that was around it and I can see
15 that argument and if you look at purely an operational
16 sense you might have come to a different conclusion --
17 I don't know you would, but I did look at it in the
18 context of all of the history and all of the debate that
19 was going on and I thought -- I mean it wasn't -- I was
20 asked to approve the decision, but I thought "Yes, we're
21 never going to be rid of this until we have looked".

22 Q. So in your view even if it wasn't, or wasn't necessarily
23 justified evidentially on the material you had, was it
24 justified in order to deal with perception that there
25 had been a cover-up, or there might be something there

1 that needed investigating?

2 A. I don't think that I'm ready to give that it wasn't
3 justified operationally. I think it's one of those
4 calls -- we're talking about the lawyers' decisions
5 earlier -- where if you put ten detectives in a room,
6 five of them will say one thing and five will say
7 another, it's just one of those close calls, but when
8 you took into account the bigger context it stopped
9 being a close call for me. If anyone said "Let's not
10 look" I would say "Don't be daft, can you just think how
11 the baggage of this -- if we say no, that is going to be
12 a big piece of baggage that we have to carry and sooner
13 or later somebody is going to crack and go and stick
14 a spade in the ground", you could just see it had to
15 happen.

16 Q. You have given a great deal of detailed evidence about
17 Rectangle and I'm not going to ask you much about it.
18 There are just a couple of discrete topics I would like
19 to ask you about and the next involves going back
20 a little in your statement to page 79 please and to
21 paragraph 264 {WS000536/79}.

22 A. Yes.

23 Q. Now in the preceding paragraphs you deal with the
24 formation and work of the Independent Advisory Group and
25 some of the difficulties that it experienced.

1 A. Yes.

2 Q. And then at paragraph 264 {WS000536/79} you say that:

3 "The experience of the IAG and the reservations of
4 the Attorney General [about it] caused me to think again
5 about the timing of the introduction of the gold group."

6 Had the idea of a gold group been considered earlier
7 and rejected?

8 A. Yes, it's in the policy log that the idea of a gold
9 group was -- two things were raised to us by the ACPO
10 group: you should have an independent advisory group,
11 you should have a gold group. We thought for various
12 reasons the IAG, the Independent Advisory Group, would
13 be the easiest to establish, it would test the water and
14 let's see if we can do it first. We rather got a rocket
15 from the Attorney General over it saying "That might be
16 appropriate in the UK but you shouldn't have done it and
17 we don't think that sort of thing is appropriate here."
18 He might have been right -- I'm not saying the
19 Attorney General is wrong in that analysis, he might
20 well have been right, but we did it because we were
21 advised it was best practice to do it and you sometimes
22 take a decision to follow advice and sometimes you take
23 a decision not to.

24 The gold group was considered. I had a good deal of
25 discussion about that I think with Andy Baker and

1 Lenny Harper. We needed something like that but it was
2 a question of timing, I have to get the timing right,
3 and in the early days you just couldn't do it because if
4 you form a gold group according to the conventional
5 model in Jersey we would have been inviting to the table
6 people who might be associated with some of the
7 allegations and, you know, how do you deal with that
8 down the line in terms of perceptions and subsequent
9 trials and that sort of thing. It just was a risk you
10 couldn't carry. Until the smoke cleared, until we had
11 a clear idea of who was implicated and who wasn't, it
12 was very difficult to talk about multi-agency working.

13 We did do other things, involved the NSPCC and so
14 on, but I thought -- when we got to a point where
15 I thought "Yes, gold group, it can be done, I want one",
16 we were in this sort of hiatus where Lenny Harper was
17 working out his notice and David Warcup was clearing his
18 desk in Northumbria and I thought the time to start this
19 is when David Warcup's feet are on the ground and that
20 has to be his first job, getting it up and running, and
21 that's what happened. Okay, if I had done it sooner
22 people would have said "Well done, you introduced a gold
23 group at an early opportunity", but it might have had
24 adverse consequences earlier. I don't think we were
25 quite ready for it earlier and I thought with fresh

1 personalities coming into the inquiry that was the time
2 to do it and it was done, it was introduced I think in
3 about July of 2008.

4 Q. And it was your idea to initiate it?

5 A. It was my idea to put it on hold until we had
6 David Warcup in place. I didn't want Lenny picking it
7 up in the last four weeks of his service, or whatever.
8 I just didn't think that was the right timing. There
9 had been issues in relationships and so better take all
10 that baggage away, say "Look, here is a fresh start,
11 we're bringing in new people, gold group" -- and we have
12 now clarified who can sit at the table and who can't.
13 We're not worried that we are going to be talking
14 operations to somebody who might be on the suspect list
15 or whatever it is, we have a clearer picture of who we
16 can talk to and who we can't. So it was my decision
17 that we waited until Warcup hit the ground, it was mine
18 to say "Do that straight away, it's one of your
19 priorities".

20 Q. In a sentence what did the gold group do?

21 A. It's a multi-agency group which -- it doesn't take away
22 the police control of the operation but what it seeks is
23 to bring together the different strands of the different
24 specialisms and it can collectively produce ideas and
25 wisdom that you might not think of as an individual, but

1 it also -- it tries to deliver joined up working so
2 we're not in conflict with each other, you know, you get
3 some harmony in the inquiry moving forward, and also
4 representatives of course with the lead lawyer, when
5 we've got one, that would have been -- he would have
6 been part of the team, he or she.

7 Q. Could we go on please to page 97 in your statement,
8 paragraph 323 {WS000536/97}. You summarise here the
9 issues that you feel impeded the early development of
10 the relationship between the investigation and the
11 Law Officers' Department and you set those out.

12 A. Yes.

13 Q. And in 323.1 you say the first is:

14 "The perception issues arising from the fact that
15 Jersey does not have a prosecution service.
16 Prosecutions for serious crime are undertaken by the
17 Jersey Law Officers Department. However, the main
18 function of that department is to provide the Island's
19 government with legal advice ... when a potential
20 prosecution is focused on a government department and
21 its staff, a perception is created that the
22 'government's lawyers' are the ones who will decide if
23 there is to be a prosecution. This can undermine the
24 confidence of victims, witnesses and in some cases
25 police officers, in the independence of prosecution

1 decisions."

2 A. Yes.

3 Q. Were the Rectangle proposed prosecutions focused on
4 a government department and its staff?

5 A. A lot of the abuse occurred in establishments which were
6 run by the Jersey Government and if it had been found
7 that there was systematic abuse in those establishments,
8 that had legal implications for the Jersey Government,
9 who would have sought advice from their senior lawyer,
10 who was the Attorney General. That's how I -- you know,
11 it's -- well, I say it's a conflict of interest. I say
12 that and if people want to put forward a different
13 argument, let them, but that's how I see it.

14 Q. When you talk about the legal implications do you mean
15 that the relevant department might have been sued?

16 A. Yes.

17 Q. Were you aware that the Attorney had actually delegated
18 responsibility for civil claims to Lacey Advocates so
19 that the Law Officers' Department had no involvement in
20 that side of things?

21 A. No, no. And I'd want to see how thorough that
22 delegation was, but I would also -- if I don't know it,
23 who else doesn't know it and it doesn't even scratch the
24 surface of the perception issues which are involved in
25 this Inquiry.

1 Q. Did you feel that the issue was whether the Law Officers
2 could make proper independent decisions, or whether they
3 would be perceived as being unable to make those
4 decisions?

5 A. I think the perception issue is the biggest, but I can't
6 say that the reality issue is completely off the table.
7 I don't think it was.

8 Q. Because of the conflict --

9 A. Because of the conflict, yes.

10 Q. Prosecution decisions in general terms were taken by
11 Crown Advocates, weren't they?

12 A. Generally, but actually in legal terms the decision has
13 to be taken by the Attorney General, I understand.

14 Q. The legal responsibility is that of the Attorney General
15 and in Jersey prosecutions are brought in the name of
16 the Attorney, therefore ultimately he takes
17 responsibility for every prosecution?

18 A. Yes.

19 Q. But is it right that in general terms a decision to
20 prosecute is taken by an independent Crown Advocate?

21 A. I'm not aware of that, no. When I had discussions with
22 the Attorney General about the need to delegate
23 decision-making in relation to Rectangle he would say
24 "Well, I can't do that because it has to be me" and many
25 of the cases that I referred to the Attorney General

1 came back with letters signed by the Attorney General.

2 I mean that's how it happened a lot.

3 Q. Were you aware of the Attorney's practice during
4 Rectangle to give the initial decision to
5 a Crown Advocate, if necessary with external advice as
6 well, and only if the Crown Advocate advised against
7 prosecution would the Attorney review the decision?

8 A. Yes, I think I might have been, but I saw them as all
9 part of the same hierarchy, or, you know -- it's an
10 interesting arrangement that you're describing, but it
11 begins -- I begin at 323.1, "The perception issues
12 arising from the fact that Jersey does not have" --
13 doesn't have, I should have put, "an Independent
14 prosecution service". There is nobody -- there is no
15 Crown Prosecutor in Jersey -- this is a guddle you are
16 describing and it is overlapping and confused
17 responsibilities that I don't understand and the man in
18 the street has no chance of understanding. The fact is
19 they perceive that the Attorney General is the
20 Government's lawyer and largely that is how I saw him
21 and it is a problem and talking about convoluted
22 arrangements that lawyers understand and nobody else
23 does I don't think helps the situation.

24 Q. How did you know there was a public perception that
25 the Attorney was the Government's lawyer?

1 A. I think you pick it up all the time from the baggage of
2 abuse, from the stories of victims and witnesses, from
3 what people you talk to say -- I mean yes, it -- did
4 I conduct a scientific survey asking people to
5 tick boxes and mark him 1 out of 10 for independence,
6 no, I didn't, but having lived in the Island for close
7 to ten years and having moved extensively among the
8 community at all levels, I think I knew what the general
9 perception was and that's my interpretation of it. If
10 somebody has got evidence that the perception was very
11 different -- you know, if we've got a queue of people
12 waiting to give evidence to say "Well, I believed the
13 Attorney General's Office was completely independent and
14 would never allow themselves to be compromised by the
15 fact that they were the Government's lawyers at the same
16 time", then let them all come in and say that because
17 you might not find too many people willing to talk to it
18 in that way.

19 Q. Could I ask you to turn back please to a more specific
20 instance and to {WD008198/6}. This is a note of the
21 meeting and at the bottom of that page you see in
22 attendance are Graham Power and Lenny Harper,
23 13 May 2008, and the Attorney said he wanted to have
24 a grown-up conversation about the newspaper article and
25 Lenny Harper's emails -- this is about media handling --

1 and he says on the next page {WD8198/7}:

2 "I said that if the Police had a problem with what
3 I was doing I needed to know.

4 "I said there were three reasons for wanting
5 a lawyer in Police HQ.

6 "Quality decision on who to prosecute in which
7 order.

8 "Getting a grip on the size of the problem facing us
9 in prosecution.

10 "Reviewing evidence early in each case to assist
11 criminal justice process.

12 "Lenny Harper denied he was briefing against me. He
13 couldn't say I was not obstructing his inquiry because
14 he had no evidence that this was so. I asked him if he
15 believed I was. He said he did not.

16 "He agrees it would have been better [i think that's
17 for him] to say it was unusual, rather than irregular,
18 to have lawyers in Police HQ.

19 "He [that's Lenny Harper] said the arrangement with
20 Simon Thomas were going well. Simon Thomas has five or
21 six files to look at and they value what he is doing.
22 Mr Power said the Maguire case is one of them. He has
23 a charge(s) of sexual nature to face. Simon Thomas is
24 upbeat about the new charges."

25 So going that far at this stage in May 2008, was the

1 arrangement about having a lawyer within the Police?

2 A. It was well intended and it got off to a good start,
3 yes. I was really upbeat at that time. I thought "Here
4 we are at last" and I met Simon Thomas and got him
5 an office and sorted all that stuff out, yes.

6 Q. And then he goes on, the last paragraph but one:

7 "Said that as part of grown-up conversation, why
8 didn't I distance myself from the case? Here they were
9 talking to me when they thought I had appointed
10 prosecutors."

11 So it does seem that there was some tension then
12 between you?

13 A. Yes, well I did have a little go at him: "If all this is
14 delegated why are we sitting here?" I still didn't
15 believe -- I was trying to make -- I still didn't
16 believe he would let go, I just didn't believe he would
17 let go and I suppose I was putting in that little dig to
18 say "We still want the one person -- the chain of
19 command is still not clear, we still want the one
20 person -- I hope this works, but" -- I'm trying to find
21 a tactful way of saying "Are you going to step out of
22 this now?"

23 Q. He goes on:

24 "I said Baker and MacRae would act. Mr Power
25 worried about MacRae - he was advising Police in

1 relation to me."

2 That's the Attorney -- that's going back to
3 Mr Syvret's allegations, isn't it?

4 A. Yes. For any doubt, "worried about MacRae" I thought
5 the service he provided was excellent, the quality was
6 excellent. My anxiety was about any conflict in those
7 two roles that he was undertaking.

8 Q. And the Attorney said there was no conflict, that
9 Advocate MacRae was:

10 "... a good independent criminal lawyer. Mr Power
11 said he would need to think about that."

12 And then the Attorney:

13 "I said they would only refer to me ..."

14 That's the Crown Advocates:

15 " ... if there was a decision not to prosecute, in
16 principle. We would consider it here, invite Police
17 views, maybe get external advice. But ultimately it had
18 to be my decision. I would not hand defence a golden
19 card by not taking decision myself."

20 Do you remember this being discussed?

21 A. Yes, yes, I do.

22 Q. And then:

23 "Mr Power said given lack of trust perhaps I should
24 make a statement. I said I was considering it."

25 What statement did you want him to make?

1 A. It is interesting I say to him "given the lack of trust"
2 and he doesn't say "What lack of trust are you talking
3 about?", so he clearly sees, as he did, there was
4 an issue.

5 Q. I think we should say in fairness we haven't asked
6 William Bailhache yet for comments on these documents
7 and this is clearly not a verbatim note of the meeting.

8 A. Okay, but he didn't say that, he didn't say "What do you
9 mean?" What sort of statement should he make? He
10 should --

11 Q. What were you suggesting?

12 A. He should -- I mean "given the lack of trust", I don't
13 know that I was ever as direct as I should have been
14 about that. I should have said to him at some point "Do
15 you realise you're part of a problem, you're part of
16 a perception problem that we're trying to deal with
17 here?" I wanted him -- I thought it would be helpful if
18 he made some public statement about the need for
19 thorough independence in legal support for this
20 investigation and although he had every confidence in
21 his own department, he understood that in this unique
22 case there was a need to take additional measures to
23 deal with any misunderstandings or perceptions that
24 there might be and he had therefore appointed
25 Simon Thomas, a senior lawyer with specialist

1 knowledges, who will from now on be leading and taking
2 decisions on that. It would have been very helpful if
3 something of that nature could have been said, because
4 we knew it and he knew what he was doing, but did the
5 world know it? That was -- it would have quietened down
6 a lot of the noises that we were getting, even the UK
7 media, you know: how can you possibly be confident that
8 you're going to get these things considered properly
9 when it's the Jersey Law Officers and we all know
10 they've got a long history of not taking ... and so on
11 and so on. I just thought it would have been helpful at
12 the very beginning, a special prosecutor.

13 Q. Finally on this topic could we go back please to your
14 statement at page 99 {WS000536/99} and paragraph 327.

15 In the preceding paragraphs you have been discussing the
16 difficulties with the potential conflict, or perception
17 of conflict and you say:

18 "Like it or not, the criminal justice system was
19 approaching a controversial and sensitive matter in
20 a climate of distrust and accusations of conspiracy and
21 cover up by the Jersey establishment. There were vocal
22 demands for external intervention and evidence that the
23 relevant UK authorities were showing what was regarded
24 as an intrusive interest in the Island's affairs."

25 A. Yes.

1 Q. Who was making vocal demands for external intervention?

2 A. You had a number of UK politicians were making demands
3 that the UK Government should intrude and I can't
4 remember who or when, but it's traceable that these
5 things were said. And some people in the Island were
6 saying that, that the UK should be in here sorting this
7 out, this shouldn't be left to the Jersey authorities.
8 We were picking that up. Even -- I remember one -- some
9 victims -- it was reported back to me that some victims
10 were saying "Okay I'm willing to be interviewed but I'm
11 not willing to be interviewed by cops from Jersey,
12 I want to speak to UK officers." So right at the
13 political level and even at street level there were
14 voices which were saying "It's time the UK got itself in
15 here and imposed a solution on Jersey".

16 I also recall going into the Attorney General's
17 office at some stage and he had just put the phone down
18 and he was in an angry state and he said "That call is
19 from some authorities in the UK who are being out of
20 order and intrusive and sticking their nose in things
21 that are none of their business and I'm having none of
22 it, I'm staying in charge of this." So clearly he was
23 getting calls and pressures as well about what he should
24 do. And he stood his ground and really the things --
25 well, you know what I think, but things he should have

1 done which would have kept it -- kept Jersey control but
2 dealt with the perception issues, but he didn't do them.

3 MS MCGAHEY: Madam, I'm going to move to another topic,
4 would this be a good moment for a break?

5 THE CHAIR: Yes, we will take a break now, Mr Power, as
6 I indicated. We will sit again at half past.

7 (3.15 pm)

8 (A short break)

9 (3.35 pm)

10 THE CHAIR: Yes, Ms McGahey.

11 MS MCGAHEY: Thank you.

12 Mr Power, I want to turn now to a specific case of
13 two individuals who were considered as part of
14 Operation Rectangle. I know you know the name of the
15 individuals concerned but I would ask you not to give
16 them.

17 A. Okay.

18 Q. Could we turn please to page 108 in your statement at
19 paragraph 355 {WS000536/108}. The Inquiry has given
20 these individuals two cipher names: 279 and 281.

21 A. Yes.

22 Q. You told us earlier this afternoon that Simon Thomas had
23 been appointed to work with the Police and in summary is
24 it right that the Police, SOJP, were ready to charge two
25 individuals when Mr Thomas in a phone call from England

1 advised them not to do that?

2 A. That's a short summary of it, yes.

3 Q. And the Police went to a centenier who declined to
4 charge?

5 A. I understand that. I wasn't there, but that's the story
6 I'm told, yes.

7 Q. And is it right that you became involved after Mr Harper
8 had issued a press release which set out the Police
9 position and was critical of the lawyers?

10 A. I became involved the following morning when I came into
11 work and I was told about this release and yes, I looked
12 at it and it was a problem, yes, it was a problem.

13 Q. Because he had issued an inappropriate press release?

14 A. Yes. He shouldn't have done it the way he did. I could
15 understand the pressure that he was under with the press
16 assembled outside the police station waiting for him to
17 say something and I believe him completely when he says
18 he firmly believed that he had been given the go-ahead
19 to charge and that was then retracted. The news could
20 have been announced in a different way, but of course --
21 I go back to an earlier theme: to get a good, rounded
22 press release that deals with that situation you needed
23 to be in partnership with the lead lawyer and having
24 thought I had got a lawyer embedded in the operational
25 team I then found that instructions were being given

1 over a mobile phone from a railway station in England.

2 That's just not -- during a key phase of the
3 investigation. It was not good enough. So yes, I don't
4 defend the wording of the press release, but
5 I understand the confused circumstances in which it
6 occurred.

7 Q. In your evidence yesterday you said that there was
8 an unwritten mechanism under which the Police could
9 challenge the refusal of a centenier to charge by going
10 to the Attorney General, or going to the Law Officers.

11 A. Yes.

12 Q. Was any consideration given in this case to a challenge
13 by Police?

14 A. I think it was because -- I might be flawed in my
15 recollection of this, but wasn't it the other way round,
16 wasn't it the centenier might have wanted it but the
17 Law Officers were saying no -- I think the intention of
18 the Law Officers that there shouldn't be any charge was
19 evident, so there was no point in appealing to the
20 Law Officers because you're asking them to appeal
21 against themselves, I think.

22 Q. Could I ask you please to look at a note of a meeting at
23 {WD008199}. This meeting took place on 25 June 2008 and
24 it was attended by the Attorney, John Edmonds, you,
25 Andrew Lewis and it had been called by the Attorney in

1 the light of the press release. It is recorded that
2 the Attorney was "very cross but measured" and he makes
3 criticism of what has happened and:

4 "He demanded a formal explanation of the media
5 policy and an explanation as to why the statement was
6 made at all and why it was so widely circulated.

7 "The Police know that there are already allegations
8 that the Attorney is obstructing the investigation and
9 this type of release serves only to add fuel to such
10 allegations."

11 Were there allegations at the time that the Attorney
12 was obstructing the investigation?

13 A. Well it was part of the sort of noises in the
14 background. You might try and pin me down and say "Who
15 made these allegations and where and when?", well in
16 those circumstances you're picking up noises from all
17 sorts of places: media reports, news reports, internet
18 blogging, the whole lot and neither myself or the AG
19 were arguing about the fact that there were a lot of
20 rumours and suspicion and perception -- I have been
21 saying most of the day there were some serious
22 perception issues about the Attorney General and here he
23 is saying yes, he knows and this isn't helping any:
24 well, that's right.

25 Q. As far as you were aware were these issues only of

1 perception or was there any substance in any claim that
2 the Attorney was obstructing?

3 A. Well, he wasn't obstructing. He wasn't obstructing, but
4 he wasn't proactive in promoting it either, and it might
5 be about styles and personalities. Well, in current
6 inquiries in the UK I have seen senior Crown Prosecutors
7 go before the media and say "We really want to get to
8 the bottom of this, I encourage victims and witnesses to
9 come forward. We will assess your evidence further.
10 You will be treated sympathetically. If it is possible
11 at all to take your case to court, we will do so, and
12 I really encourage you to have faith and confidence in
13 the Crown Prosecution Service." I have heard those
14 words said. I have even heard the British Prime
15 Minister say something similar to encourage people --
16 none of that happened here. Nothing even remotely
17 touching that happened here. My honest opinion, his
18 attitude was "If you put together a file and put it on
19 my desk then I'll take an honest decision on the
20 evidence and if someone has to be prosecuted they
21 will be". That's it.

22 There was no serious attempt to address the
23 perception issues. I'm not sure how much he cared about
24 the perception issues some of the time.

25 There was no overt attempt, no pro activity, nothing

1 done or said which encouraged people to strengthen their
2 belief in the integrity of the justice system. That's
3 I'm sure a longer answer than you wanted, but it's how
4 I feel about it.

5 Q. Thank you. Going back to the minutes of the meeting,
6 about two-thirds of the way down, "CO" that must be you
7 as Chief Officer:

8 " ... said [the individuals] would not have been
9 arrested if they were going to be released without
10 charge. An NSPCC victim counsellor had said in the
11 light of this that people do not believe that there will
12 be justice. The Police understanding of what was going
13 to happen had been undermined. This was all done by
14 a mobile call from a railway station in England."

15 Then:

16 "AG said that the Police must account to
17 Home Affairs for their media strategy. This is not
18 an operational matter. The issue is not the falling out
19 but the way in which it was handled. The AG said he
20 wanted to be consulted about any future press release."

21 Did that actually happen, was the Attorney consulted
22 from then on, or do you know whether he was?

23 A. Oh, yes, I think so. Yes, yes. We did a lot in concert
24 at that meeting, probably more than it says here.

25 Q. "CO said that Lenny Harper doesn't understand who has

1 the responsibility for the charging decision. There
2 needs to be a structured charging policy."

3 And you have given evidence of that this afternoon.
4 Then over the page please:

5 "CO said that they thought that they had the
6 arrangements right.

7 "AG said that he wanted a lawyer to be fully
8 integrated into the team."

9 Can you remember what you were talking about, having
10 the arrangements right?

11 A. I think we were talking -- we might have been talking --
12 because I go on to talk about what I have said and had
13 meetings with David Warcup about and I think I'm talking
14 a little bit in the future, the next phase, because this
15 was the last act of Lenny Harper's police career. It
16 was no good saying to him "Don't do it again" because he
17 didn't have a chance to do it again, he wasn't going to
18 be around and so I was talking about the arrangements
19 that I envisaged for the next phase, which was when
20 David Warcup was there, we were going to integrate
21 a lawyer into the team and do -- I think -- I don't know
22 if it says it here, but I said "No more arrests without
23 further" -- "legal advice should be in writing."

24 You know, before this case happened, the lawyer,
25 Thomas, Harper and other detectives met, talked about

1 the case, talked about the arrest and they both managed
2 to come away from the meeting with different impressions
3 of what had been agreed and not a single piece of paper
4 between them. You know, that --

5 Q. We can ask Mr Harper, because he was the one directly
6 involved, about what happened. I would like to
7 concentrate on what you knew.

8 A. Yes, well I knew that they didn't have a single piece of
9 paper between them, because I asked for it, yes.

10 Q. Going on in the minute you said, the Chief Officer:

11 " ... said that he needed to prevent a similar
12 occurrence. There would be more formalised
13 communication regarding the next prisoners and any
14 statement regarding persons in custody."

15 That goes back to what you were saying about having
16 paper?

17 A. There was a huge problem but you try and turn problems
18 into opportunity. This was an opportunity to rebuild
19 and to get it right from this point onwards and that's
20 what I'm talking about at that stage.

21 Q. And:

22 "The AG and CO agreed that they had previously had
23 a good working relationship."

24 A. Yes.

25 Q. Was that right?

1 A. Yes, yes. I mean we never fell out at a personal level,
2 ever. We just didn't always -- we had a different view
3 of how these things should sometimes be managed and the
4 informal arrangement -- the arrangements we had didn't
5 survive under pressure.

6 Q. The following day it seems that you had a telephone
7 conversation with the Attorney and could we have
8 {WD008198/8} please. You see about a third of the way
9 down "Telecon Graham Power 26/6/08":

10 "I shared the problems of the memo received from SB
11 [Steve Baker] and said we needed to work on
12 the Police/lawyer relationship."

13 You are obviously then dealing I think with what
14 must have been on the memo, asking for examples of
15 information going on a blog before it was in the public
16 domain and a question as to whether it is Steve Baker or
17 Simon Thomas that was there. You thought you had
18 somebody full-time. You then said there would be a new
19 senior investigating team in a few weeks and Mr Harper's
20 role was going to be split into two.

21 A. Yes.

22 Q. And you discuss that. Then "Imminence of this and
23 undertakings on your side", that's presumably
24 undertakings that no press release of that sort would be
25 issued again.

1 A. Yes.

2 Q. "A chain of command on our side would be helpful.
3 You're not clear where it is."

4 A. True.

5 Q. "Your new [senior investigating officer] will be told to
6 tackle the lack of trust in the legal system. It's
7 a perception which is very real to complainants you say.
8 I said that needed to be dealt with. It was unhelpful
9 for Police to promote it as the press release had done."

10 And you agreed.

11 A. Yes.

12 Q. And you "emphasised the importance of arrests and
13 charges" and the Attorney said he understood that and he
14 was intending only to prosecute if the evidential test
15 was met and it wasn't fair to do otherwise and that you
16 agreed with that.

17 "I said [that's the Attorney] I thought we both
18 needed to work hard at improving relations in the team.
19 I said I was committed to completing this matter
20 properly. You said you were satisfied about that
21 commitment."

22 Then he makes a note to himself:

23 "(Did I suspect slight emphasis this was personal to
24 you? I think so)."

25 And then you discuss the prosecution policy.

1 Do you remember having that conversation?

2 A. Yes, it rings a bell. It is not a clear recollection
3 but I'm not challenging in any way that that
4 conversation took place and we covered the ground.

5 I mean interesting I am still talking about the chain of
6 command of the Law Officers in whenever it was, yes.

7 Q. It is 26 June.

8 A. Yes, well there we are. But you can see I'm trying to
9 put the arrangements in place to move forward, yes.

10 Q. And lastly on the question of the role of the Attorney
11 could I ask you to look please at {WD008197}, jumping
12 a little forward in time now because this is
13 8 October 2008. Can we go to the next page please
14 {WD008197/2}.

15 A. Yes, well, here we go.

16 Q. And sorry the next page again {WD008197/3}. It starts
17 with an email chain initially not sent to you but
18 ultimately copied to you so you see it. It is to
19 David Minty, who is one of your officers, isn't he?

20 A. Dave was head of CID at the time I think.

21 Q. "David, we discussed but never formally agreed that the
22 AG would have a confidential word with Bill Ogley to put
23 him on notice about the concerns which have been
24 expressed in relation to the Children's Service and some
25 of their decisions.

1 "The AG has asked me to confirm that it is agreed
2 that he should give Bill a confidential briefing."

3 And Mr Minty then asks for your opinion. Could you
4 go back a page please {WD008197/2}. You give an initial
5 response "Yes and no".

6 A. Yes.

7 Q. "My first reaction is to say that this situation arises
8 because the Chief Prosecutor is also the legal advisor
9 to the Government and once again there is a conflict of
10 interests. However, we are in the system we are in and
11 have to work within that system.

12 "If the Police position is that there is 'reasonable
13 suspicion' of criminal offences then I suppose that
14 stays the position. However, I acknowledge that I said
15 that given the unusual nature of the potential inquiry
16 it might be appropriate to seek Law Officers' advice on
17 whether a potential offence is disclosed. The proposed
18 briefing will have the practical effect of rendering any
19 prosecution out of play and exposes the AG to the
20 customary allegations that he is party to a network
21 cover-up of child neglect."

22 And then you say you can't see quite what else
23 anyone can do but you want to talk about it. What's the
24 topic? What was the Attorney going to discuss with
25 Mr Ogley?

1 A. It was potential criminal offences by members of the
2 Children's Department. David drew to my attention
3 a case and he briefed me on a case in which children who
4 were deemed to be at risk were in the custody, care or
5 whatever of the Children's Department and consideration
6 had been given to returning them to their domestic
7 environment, whatever it was, the homes or whatever they
8 had been in, the family home say, I believe it was, and
9 an expert assessment had been obtained which said this
10 was a high risk to those children, there was a danger
11 that if they were returned to that environment they
12 could suffer abuse and what I was told was that
13 irrespective of this advice the Children's Officers had
14 returned them to that environment and that abuse had
15 occurred and the matter had then had to go before
16 the courts, and David was drawing my attention to a bit
17 of the Children's Law which I was not familiar with
18 which seemed to say that it was a criminal offence to
19 expose children to the risk of abuse and David's
20 argument was that by acting in the way they did,
21 contrary to advice and for failing to supervise
22 effectively, members of the Children's Service had
23 committed a criminal offence of exposing children to
24 abuse. That was his argument. I didn't read the papers
25 and I didn't see the need to. I was asked what we

1 should do.

2 Q. And why did the Attorney want to brief Bill Ogleby about
3 this?

4 A. Well, it's my recollection -- and that is supported by
5 the email -- that he saw that as a solution to the case,
6 that -- I referred the matter -- and it is clear in
7 there. I said refer this matter to the
8 Attorney General, not because I wanted to be told what
9 we should or shouldn't investigate, but I want some
10 guidance on the interpretation of the law. I've never
11 heard of -- or I'm not an expert in this field, but I've
12 never seen the law interpreted in that way, but it does
13 on the face of it have the basis for a criminal
14 investigation: "Something has seriously gone wrong here
15 and it might be criminal, that's what you're saying?",
16 "Yes, I am, sir". "Ask the Attorney General whether he
17 has the same understanding of the law."

18 What seems then to have happened is the
19 Attorney General appears to have suggested that he would
20 resolve the matter by having a quiet word with the
21 Chief Executive. If that is my correct understanding of
22 this ... I was just appalled.

23 Q. Is that your understanding from the emails, or was that
24 something you discussed with the Attorney?

25 A. No, I didn't discuss it with the Attorney. I heard it

1 from David Minty and it seems -- I originally mentioned
2 this in one of the statements and I said "I have this
3 recollection and it is not complete." Well, the email
4 makes it more complete and what I said there and what
5 I said in my statement was "That's how we got into this
6 situation in the first place, isn't it? Didn't we all
7 get into this mess because people didn't deal with
8 things properly and here we are in October 2008 and it's
9 happening again." And I think I said "I just can't have
10 this, I'm not having this."

11 Q. Did you discuss it with the Attorney?

12 A. I don't think I did and I can't remember what happened
13 subsequent to that, but not long after that I went --
14 I had to go to the UK because of some welfare issues
15 relating to my mother and of course we all know when
16 I got back I was gone, so, you know, that -- don't ask
17 me what happened next, what happened next is I got
18 thrown out, that's what happened next.

19 Q. We can see a little bit more of what your final advice
20 was if we go back one page again please {WD008197/1} and
21 you are writing again to David Minty and you say:

22 "The more I think about it the less I like it. This
23 could be a gift to conspiracy theorists. I keep asking
24 myself 'is there a crime to be investigated or
25 not??' ... If there is then what is the status of the

1 proposed meeting? ... Will a note be made? Could this
2 be evidential? ... At some stage in the future there
3 could be a leak/disclosure How will our true
4 account look with hindsight and what will the AG say??

5 "This is troubling me more than a bit and I would
6 like to talk.

7 "If asked by the Law Officers then the holding
8 message is that we need to understand the proposal
9 better and are having discussions on what should be said
10 in response to what is suggested."

11 A. Well --

12 Q. And as far as that, is that the end of your recollection
13 as to what happens?

14 A. It reads well now and yes, it's the end of my
15 recollection of what happened, yes. It's one of the
16 final emails that I sent from that address.

17 Q. You remained in Jersey for another month. You left
18 Jersey on 5 November, didn't you, the 5th or 6th?

19 A. I can't remember.

20 Q. I think your last day in the office was 5 November, so
21 it is another month.

22 A. Yes, okay, all right. I thought it was sooner, but
23 I take your word for it, okay.

24 Q. I think you were away from Jersey from the 5th to the
25 11th, according to your statement, or probably the 6th,

1 it is hard to say.

2 A. Well, if the next question is did I -- no, that was all
3 I recall about that and I did say -- and I was giving
4 people time to reflect and to consider how to take that
5 forward.

6 Q. I would like now to turn to the handover to Mr Warcup
7 and Mr Gradwell and could we go please to your statement
8 at page 120 and paragraph 404 {WS000536/120}. Just to
9 give you the context to this, you say earlier in your
10 statement that Mr Harper left formally in August 2008
11 but he probably took some leave and so in practice left
12 in July, but the introduction of Mr Warcup and
13 Mr Gradwell had been made over time, that in fact you
14 had been having conversations with Mr Warcup as early
15 as February when he was the leading candidate.

16 A. Yes. I think that's an important point as well: Warcup
17 was part of a general conversation from February
18 onwards. He was present on the day that we started the
19 dig at Haut de la Garenne, yes.

20 Q. Then you talk at paragraph 404 about the selection
21 process in which you didn't take a part, but over the
22 page {WS000536/121} you speculate about some potential
23 hidden agenda between Mr Ogleby and Mr Warcup involving
24 the winding down of Rectangle and you say you don't have
25 any direct evidence but:

1 "It nevertheless remains the case that after Warcup
2 was appointed no new cases entered the prosecution
3 process."

4 A. That's my understanding, yes.

5 Q. What exactly do you mean by entering the prosecution
6 process, what stage do you have in mind?

7 A. My understanding is at that time -- and if you look at
8 the script of the press conference it is about "We will
9 resolve and refer and investigate those cases which have
10 been reported", you know, it was a sort of closure
11 statements that they were making there, and so if cases
12 were in the system they would see them through to the
13 end of the system, but I wasn't aware and certainly
14 I saw no conscious efforts to achieve the entry of new
15 cases into the system.

16 Q. The Inquiry has evidence of two, of [REDACTED] and
17 Ronald Thorne, where investigation appears to have
18 started -- or at least statements being taken from
19 witnesses in August 2008.

20 A. Oh yes, when I was still about. I think I'm talking
21 about once I'm out of the way. I think that's what I'm
22 talking about here, is when I'm out of the way: once I'm
23 gone nothing new happens.

24 Q. So it's not actually precisely after Mr Warcup was
25 appointed, because that was August.

1 A. No, no.

2 Q. So it's a few months down the line.

3 A. Yes, once I had gone.

4 Q. And after that you don't have any really direct
5 involvement any more?

6 A. No.

7 Q. Okay. But by that time in any event Rectangle had been
8 public since November 2007 and had had very high levels
9 of publicity --

10 A. Yes.

11 Q. -- from February 2008 onwards and many witnesses had
12 come forward, many potential victims. Realistically
13 there was going to come a stage at some point at which
14 Rectangle had no more victims to identify, wasn't there?

15 A. Yes, there would have been.

16 Q. And would that have been a natural point, getting on for
17 ten months?

18 A. It would be, but the closure comes I think through lack
19 of demand not by Police decision and I go back to the
20 statements that were made at the press conference when
21 I was suspended. They were closing down statements. If
22 there had been some strong appeal there saying "And we
23 are still interested in hearing from you victims and
24 witnesses" and then I would suggest you have to give
25 a cut-off date, you know, "If we haven't heard from you

1 by June next year" or whatever it is. I have a sense
2 and a lot of other people have a sense that that -- we
3 just know that there was a sort of "shock and awe"
4 impact on a lot of potential victims or witnesses --
5 that's come to me from a lot of sources. I'm just
6 saying the inquiry wasn't particularly active once I was
7 gone. It went through what was on his desk and I'm not
8 aware of any significant new business that came its way.

9 Q. So was it the press conference that had a "shock and
10 awe" impact, is that what you're saying?

11 A. It did on some people, that's what people tell me.

12 Q. The press conference was on 12 November 2008, the
13 inquiry had by then been public for a year. Would you
14 not have expected --

15 A. There would be some natural winding down, yes. There
16 would be some natural winding down. True.

17 Q. At paragraph 408 of your statement, over the page please
18 {WS000536/122}, you say there that you opposed any
19 suggestion that Lenny Harper should stay on and his
20 contract be extended presumably to carry on with
21 Rectangle.

22 A. Yes.

23 Q. Why?

24 A. I thought it was time for a fresh start and it was also
25 getting so big and complex that we needed more

1 bureaucracy, we needed somebody who was more familiar
2 and had more contemporary knowledge of the complex
3 administrative systems that you need to put in place for
4 an investigation of this size and also I think given the
5 difficulties we had had, something of a relaunch with
6 new faces was appropriate and I included myself in that.
7 I thought that I could see the arguments for saying we
8 ought to create a forward momentum with different people
9 and lose the baggage, if you like, of all the
10 difficulties that had gone before.

11 Q. And we have in the Attorney's note of a meeting that
12 took place on 19 August between him, you and
13 Mr Warcup -- if we could have on the screen please
14 {WD008198/9}. We start right at the bottom of this
15 page, you see attendance "GP & DW", 19 August 2008.
16 Item 1, "Status of 'homicide' inquiry." Then over the
17 page please {WD008198/10}:

18 "DW [Mr Warcup] - every investigative tactic and
19 trail etc has been followed as if it were a homicide
20 inquiry. You need to know how bones/teeth etc got
21 there.

22 "Statements, forensic review, intelligence so ..."

23 Was Mr Warcup there supporting what had been done in
24 terms of a homicide inquiry?

25 A. There was no homicide inquiry but you had to do -- and

1 we have been through this earlier -- you had to do
2 things to ensure against a possibility that it could
3 turn into one and so we were at a stage for quite a lot
4 of time of checking to try and discover whether we were
5 dealing with a murder scene or not; you know, "Are we
6 dealing with a murder scene or are we just dealing with
7 a lot of old debris that's of no sinister significance".

8 Q. But was Mr Warcup there expressing his support for what
9 had been done?

10 A. Well, he is not expressing his opposition, that's for
11 sure. He seemed to be very much on side at that time.

12 Q. And do you remember this meeting?

13 A. Not very well, but I remember a whole series of meetings
14 and events where I was walking the ground with him and
15 introducing him to people and phasing him in, even
16 though he hadn't taken up the post -- I don't know
17 whether this is before or after he had taken up
18 position.

19 Q. It is probably just after.

20 A. So this was part of it, this was part of the handover
21 process.

22 Q. The note goes on and it looks as though it is
23 attributable to Mr Warcup:

24 "Metropolitan Police are carrying out a special
25 review in September. There may be an awkward decision

1 to take thereafter - review will take four weeks to
2 carry out."

3 What's the awkward decision that he is there
4 referring to?

5 A. Oh, I wish I knew. Yes, I don't know.

6 Q. Do you remember anything being discussed at a meeting
7 about an awkward decision to be carried out -- made
8 after --

9 A. Not while I was present, no.

10 Q. It looks as though you were present at this meeting.

11 A. Yes.

12 Q. But do you remember it?

13 A. No.

14 Q. And then:

15 "Metropolitan Police review will also cover how many
16 investigations will continue.

17 "DW and [the Attorney General] will consider at that
18 point what, if anything, needs to be said to the
19 public."

20 And Mr Warcup:

21 "... will produce a draft letter as a protocol for
22 dealing between Police and lawyers.

23 "DW said there is a lack of confidence in the timing
24 of the advice.

25 "GP thinks that we ought to consider the spin -

1 possibly by appointing a legal 'expert'."

2 What did you have in mind there?

3 A. I don't know about that. That doesn't sound entirely
4 like me, but am I going back to -- am I still beating
5 the drum to try and get this independent lead prosecutor
6 that does the media interviews and everybody knows who
7 he or she is and this is the person we work to? Am
8 I trying to resurrect that idea? I don't know. I know
9 it is what I still wanted, but I don't know whether
10 I was still speaking to it at that time.

11 Q. You go on in your witness statement to talk about
12 Mr Warcup's desire to have a press release, as he saw it
13 to put the record straight?

14 A. Yes.

15 Q. And you took the view there was nothing to put straight,
16 or if there was then information could be given out
17 incrementally?

18 A. I think what we had to put straight was not what we
19 said, but what other people had said and there was
20 a need certainly to do some expectation management to
21 clarify just where we were publicly in relation to this
22 investigation and that could be done, that could be
23 done. We could draw attention to things we had said
24 already, we could describe the evolution of a process.
25 You know, once upon a time we said we had recovered some

1 items which were suspicious and needed further
2 investigation, that investigation has now been done and
3 it becomes clear that ... and so on and just give people
4 a better perception of where we were, and then say some
5 things by way of -- you know, "There has never been
6 a formal murder investigation and it now looks as if
7 there is not going to be one." There are a lot of
8 things you could do to put the record straight,
9 absolutely no dispute over the need to do some
10 clarification around the history of the media reporting.

11 Q. I would like you to look please at a telephone note of
12 a conversation. Could we have {WD008201} please. It is
13 unclear from the document itself who has written this
14 note and who is speaking to Mick Gradwell, but leaving
15 that aside, Mick Gradwell has called and he said
16 "Matt Tapp is about to leave Jersey." Matt Tapp was
17 a media consultant, wasn't he?

18 A. Yes.

19 Q. In fact it was he who was the author of the report
20 quoted by the Court in the Wateridge case.

21 A. Yes.

22 Q. "He met with Graham Power and his professional integrity
23 does not allow him to remain and assist the States of
24 Jersey Police. Graham Power has refused to sanction the
25 press policy. He is alleged to have said that he

1 believes that the Island is full of paedophiles and that
2 he is satisfied that there are 8-10 bodies buried at
3 HDLG. What Lenny Harper did was spot on. He fully
4 supports him. The only release which he will sanction
5 is along those lines but that there is insufficient
6 evidence to prove it."

7 Is that what you said to Matt Tapp?

8 A. No, it isn't. No it is not. I did not say to Matt Tapp
9 that I was satisfied that there were eight to ten bodies
10 buried at Haut de la Garenne, and remember this is
11 recorded by a senior member of the Law Officers'
12 Department and two people speak to Tapp: Gradwell speaks
13 to Tapp and a senior member of the Law Officers'
14 Department speaks to Tapp. They both record what he
15 says and he says that I said that there were eight to
16 ten bodies buried at Haut de la Garenne: there can be no
17 doubt that he said that. And he held to that and he
18 repeated it to anyone who would listen, until the time
19 came when he had to sign a statement to Wiltshire and he
20 saw the declaration on the top of the sheet that says
21 "You can be prosecuted if you tell lies" and his nerve
22 went.

23 Q. What did you say to Matt Tapp?

24 A. He thought he was there to tell me what to do.

25 I thought it was a job interview. He was wanting lots

1 of money to do stuff and he began by saying "I'm here to
2 help you explain why you're closing down the murder
3 investigation" and I thought "Oh, no, not another one",
4 and so I had to say "Look it's not a murder
5 investigation" -- he wasn't a listener and I will be
6 honest about it and say that I was tired, I was
7 irritated with him and probably this wasn't my star
8 performance, but I didn't say this stuff. I did
9 challenge him "What are you going to do for the money
10 we're going to give you? Have you looked at this in the
11 round and can we do the seamless transition I'm looking
12 for? I'm not looking for a big row in the handover, I'm
13 looking for a seamless transition. I want to achieve
14 that, how are you going to help us?"

15 But his style was very evident in his interview with
16 me and in the subsequent press conference he -- it's all
17 good guys, bad guys, right, wrong, I didn't think he was
18 a person who could comfortably deal with complex,
19 ambiguous grey areas which we had to deal with. I just
20 didn't take to him and I was probably too ratty and
21 I did try to explain some of the perception background
22 that we had. People believe that there's a lot more
23 than we have discovered. It's not perception we have to
24 deal with as much as the reality.

25 I did not say that I was satisfied that there were

1 eight to ten bodies buried at Haut de la Garenne.

2 I didn't say that and he has subsequently admitted that

3 I did not say that. He lied about that.

4 Q. In the second half of the note you say it is

5 a conversation directly with Matt Tapp and again he

6 repeats what he says you told him, and he first confirms

7 the accuracy of Mick Gradwell's report and says:

8 " ... added that another highlight was that he

9 suggested to GP that having looked at the evidence, LH

10 had misrepresented the evidence and that the public had

11 been misled. His response was 'So bloody what?'.
12

[Mr Tapp] had come to assist the investigation and

13 enable it to deal with important issues and move forward

14 constructively. His views were not accepted by

15 [Mr Power]."

16 Well that last bit seems to be right. But did you

17 say "So bloody what?" --

18 A. Not in that context I'm sure. I just don't remember

19 this very well and I wish I remembered it better.

20 I didn't scurry away and make notes or talk about it to

21 people. But I certainly issued some robust challenges

22 to him.

23 Q. Did you say "So bloody what?" in response to the point

24 being made, that Lenny Harper had misrepresented

25 evidence?

1 A. No I wouldn't, because that would be an important issue.
2 If anyone said we had misled the public I would say
3 "Look, I don't think we have." I think that elements of
4 the media have misled the public. I think there's a lot
5 of confusion out there and there's a need to bring
6 clarity -- I don't think we deliberately or even
7 accidentally misled the public, but you've got to look at
8 what we've actually said. I just didn't -- I thought he
9 was going to be controversial, divisive, damaging and
10 I say I was right about all those things and I was wise
11 to say "I don't think you're the man for us". But
12 I can't remember this in detail, but the only bit that's
13 well documented is the eight to ten bit and we know that
14 he has backed down from that, so why should anyone
15 believe anything else and it's clear, if I had have said
16 anything that seriously compromised in the rest of it he
17 wouldn't have had to invent the bit about me saying that
18 there were eight to ten bodies.

19 Q. You took the view that the sort of press conference that
20 Mr Warcup wanted and that Matt Tapp was presumably
21 planning to help him with was not appropriate?

22 A. Yes.

23 Q. But you have explained in your statement that as you
24 were involved in succession planning you were
25 essentially losing control of Rectangle?

1 A. I was losing control, yes.

2 Q. And in the end you decided that it was inevitable this
3 was going to happen and you told Mr Warcup that you
4 wouldn't stand in his way.

5 Presumably this press conference could have been
6 held whenever you wanted it, not necessarily around the
7 time when you were either away from the Island or just
8 coming back?

9 A. I'm not sure I would have much influence any more, but
10 it -- the date had to suit a lot of key players.

11 Q. Was the date fixed in advance, did you know before you
12 went away that it was going to be 12 November?

13 A. I think it was fixed before I went away.

14 Q. So you knew you would be back?

15 A. No, I knew -- I thought I would -- no, I don't think it
16 was. I just can't remember that bit. I knew that the
17 conference was planned. I knew that I just had to get
18 away. I had seen what I was led to believe was a script
19 and I had become more relaxed about it. I thought
20 "Well, people have listened to me, that's encouraging
21 what's going on here. I don't like it just the same,
22 but it's not as damaging and divisive as I thought it
23 was going to be" and I made some amendments to the
24 script and signed it off.

25 Q. And you explained in your statement what subsequently

1 happened. Did you say that you would not attend the
2 press conference?

3 A. No, I don't think I did say that I would not attend.

4 I just can't remember what position I took in
5 relation -- I was on holiday. I was due to be back in
6 the Island but I was still on holiday and I had more
7 plans for those next few days and so I didn't --
8 I thought "You can't have two captains on the bridge of
9 a ship and it was clear then that the handover was
10 accelerating, that people were looking to Warcup as
11 effectively the head of the Force designate and the
12 person who was going to be shaping things in the future
13 and, you know, I could see which way the wind was
14 blowing and I said elsewhere I was almost relaxed about
15 that and I was aware that within a couple of weeks -- we
16 were going through an election, within a few weeks there
17 would be a new government, a new minister and I was
18 quite prepared to go and see the new minister when
19 appointed and have a discussion about whether that
20 minister felt the handover was then complete and whether
21 it was appropriate for me to step aside. I didn't like
22 the arrangement I was in. I didn't like being chief of
23 the Force but somebody else taking most of the
24 decisions, where we seemed to have got to. I had had
25 enough of it.

1 Q. You were unhappy with the initial plans for the press
2 conference but, as you say, were reassured when you saw
3 a draft.

4 A. Yes.

5 Q. But did it not occur to you nevertheless it would be
6 a good idea for you to attend it --

7 A. No.

8 Q. -- to ensure that things were not said that you were
9 unhappy with?

10 A. I don't know how I could do that. I think if we had
11 walked up and I had been there together, skillful
12 questioning would have extracted conflicting messages or
13 perceptions from us both and that wouldn't have played
14 well. I thought I had got an agreement that he would
15 take the lead on it, he would appear now as the
16 leadership of this investigation, but he would be
17 talking to a script that I had signed off and I could
18 live with.

19 Q. You have described in your witness statement the press
20 conference of 12 November as being sensationalist and
21 misleading.

22 A. Yes.

23 Q. And that's still the view you hold?

24 A. Yes, it was divisive. I mean any fool can -- you know,
25 we have all moved about and taken charge of

1 organisations and you think "Well, I'm going to bring
2 about some changes here" and that sort of thing. Any
3 fool can stand there and rubbish the work of
4 a predecessor who is not there and say "Everything
5 before me was rubbish and now everything is going to be
6 sensational", I mean that's just a cheap shot,
7 inappropriate way to behave. The skill was to bring
8 about the seamless transition.

9 Q. You have set out in your witness statement your
10 criticism of the press statement. Could I ask you to
11 look again please at the judgment in the abuse of
12 process application that you looked at earlier this
13 morning at {WD005903/7}. This is the Commissioner then
14 at paragraph 18, which is towards the top of the page,
15 second paragraph down, setting out the factors that lead
16 him to refuse the application to dismiss the case and he
17 says (i):

18 "First, in November 2008, the new senior
19 investigating officer held a press conference in which
20 he put the record straight about the findings under the
21 building. That press conference received wide publicity
22 and the tone of press reporting has changed. Indeed,
23 the prosecution might now argue that it risks
24 encountering jurors who believe that the Police have
25 said that everything that had gone before was wrong. In

1 my judgment, this press conference went a long way to
2 repair the damage that had been done by earlier press
3 publicity."

4 With hindsight now do you think it could be said
5 that that press conference actually did help to repair
6 the damage and prevent an abuse of process argument from
7 succeeding?

8 A. I'm not a lawyer, I'm not an authority on abuse of
9 process arguments, but the Court will have come to its
10 judgment on the basis of what it was told and I don't
11 know what it was told and this hearing went on without
12 my knowledge and certainly without any input from me.
13 You know, the important thing is that the Court ruled
14 that a trial could take place and I suppose as
15 a professional you will take any damage and criticism
16 that delivers that outcome, so I'm not going to be too
17 desperately upset that he said that, as long as the
18 right outcome was achieved.

19 I just do not -- it could have -- the same outcome
20 could have been achieved in a more skillful way, and the
21 perception created was that this is a closing down. If
22 you look -- as I say in my statement, the language is of
23 closure, is of ending and I stand to my view that there
24 had to be some activity with the media to get the record
25 straight. I think it could have been done with more

1 skill. I think that the script that I signed off was
2 plenty good enough and why give it to me to sign off if
3 it's not intended to be used? I mean I was okay with
4 the script for that conference that I was shown.

5 Q. Lastly, Mr Power, you have referred a few moments ago to
6 the fact that you ended up leaving the SOJP.

7 A. Yes.

8 Q. You were suspended on 12 November 2008.

9 A. Yes.

10 Q. And you have provided the Inquiry with a great deal of
11 detail as to what happened. So lastly I would just like
12 to ask you to look at one final document. Could we have
13 please {WD007216}. This is a note of the meeting at
14 which you were suspended and the note has been signed by
15 the Home Affairs Minister and the Chief Executive and
16 they sign it as being accurate to the best of their
17 recollection and what I would like to do is go briefly
18 through it and ask you whether it is to your
19 recollection accurate.

20 It starts with Mr Lewis informing you that he had
21 attended a briefing, and you discuss that in your
22 witness statement, the previous day. Mr Lewis informed
23 you that he had received a letter from Bill Ogley which
24 enclosed a copy of the report that Bill Ogley had
25 received from DCO Warcup:

1 "[Mr Lewis]' conclusion was that he had significant
2 concerns about the command and control structures in
3 place as regards the inquiry and [Mr Power]'s role
4 within that. [Mr Lewis] would therefore invoke the
5 Disciplinary Code relating to the Chief Police Officer.
6 He then invited [Mr Ogley] to explain the process.

7 "[Mr Ogley] informed [Mr Power] that if he wanted up
8 to an hour to consider matters he could take that time
9 and if so he could have drafts of the letters it was
10 intended to give him to activate the process."

11 Stopping there, do those two paragraphs reflect in
12 summary what you were told?

13 A. I think that some of the first paragraph is true, he
14 certainly went through some sort of script as described
15 in the first paragraph. The second one isn't and it has
16 the crucial omission, doesn't it, "wanted up to an hour
17 to consider matters"; oh, no he didn't say that. He
18 said "We will give you an hour to consider your
19 position." I'm saying that on oath. Anyone who thinks
20 I'm not telling the truth about that do your worst. He
21 said "We will give you one hour to consider your
22 position." That isn't true.

23 Q. You have explained in your statement that you took that
24 to mean consider whether you want to resign?

25 A. We all knew what he meant. There was not the slightest

1 doubt what he meant.

2 Q. Tell us what he did mean?

3 A. He meant that if I wanted to go quietly and resign
4 I could do so, that's what he meant, because here he was
5 sitting with a lot of legal looking papers and I was
6 going to be in for a lot of stress and a lot of trouble,
7 but if I wanted to go quietly into the next room and
8 sign a piece of paper, I could. That was absolutely --
9 there is not a shred of doubt that that was what he
10 meant. And my part, and on his as well, because he
11 wouldn't have changed it in there unless he realised
12 that that phrase was a problem.

13 Q. In paragraph 3 it says that you refused the offer of
14 time.

15 A. Yes.

16 Q. And pointed out that the meeting you hadn't been told
17 about had taken place when you were on the Island. You
18 hadn't seen the report, presumably one or more of the
19 reports referred to above and you hadn't had
20 an opportunity to reflect and you said that you were
21 aware of the press briefing but not of the meeting the
22 previous day. You confirmed that you had been aware of
23 the draft findings of the Metropolitan Police report
24 before you went on holiday. Was that right?

25 A. Well, I will answer that last question first. Yes, very

1 clever he says that. I won't have said that I -- what
2 I would have said is -- what happened, what's true --
3 I can't remember exactly what I said but I know what's
4 true is that when the Met team had finished their
5 initial review they came to see me and said "Here are
6 the things that we think you need to address" and we
7 went through the list and I noted it all and when they
8 had gone I went out and made sure it all happened, so
9 that the document they're referring to was redundant by
10 the time it hit the desk. It had all happened. And
11 I think the most conspicuous example is that in the
12 correspondence one of the chief allegations, there is no
13 evidence of a gold group to coordinate -- if I had the
14 wit to say at the time, and I said "Bill you have been
15 sending representatives to the gold group since July.
16 You are suspending me for not having something on which
17 you have a sitting member." So far as what I said is --
18 I don't think I said as much as "This is a stitch-up",
19 but I said "Come on, you want me to talk about
20 discipline, about a report that -- where is it? I'm not
21 represented? I have had no notice that this is taking
22 place and you're talking about a report I haven't even
23 seen. How am I supposed to defend myself? What
24 dialogue am I supposed to have with you when you won't
25 even show me the document you're talking about?"

1 Q. And he has summarised -- you made the point -- that you
2 hadn't seen the report. Then at paragraph 5 Mr Ogley
3 "explained that the disciplinary process had been
4 updated" and gave you a copy and a letter informing you
5 that the disciplinary process had been invoked and
6 another letter suspending you, is that right?

7 A. Yes.

8 Q. And then your response is set out at (a) to (h) on the
9 next page {WD007216/13}, that you challenged Mr Ogley's
10 competence and impartiality and his ability to undertake
11 an investigation.

12 A. Yes, I said I want an independent investigation.

13 Q. And you wanted a chief constable?

14 A. Yes, I wanted a chief constable from a UK force, yes.

15 Q. And you wanted complete equality of treatment under the
16 code, full legal representation provided by the States?

17 A. Yes.

18 Q. Denied any wrongdoing.

19 A. Yes.

20 Q. And you drew attention to the fact that at every stage
21 of the investigation you were provided with independent
22 advice from ACPO and had acted on that advice.

23 A. Yes.

24 Q. And that you would be contacting your professional
25 association for an advisor and you would await their

1 response to the points you had raised.

2 Is that an accurate reflection of what you said --

3 A. It is accurate but it covers the ground -- I will have
4 covered all of these points in what I said. Crikey,
5 I wasn't making notes and my head was spinning pretty
6 well at the time, but yes, this was me saying "I'm not
7 rolling over and you're going to have some work to do",
8 yes.

9 Q. At paragraph 7, Mr Ogley said that he and Mr Lewis would
10 consider all of these points and provide you with
11 a written response. He then looked at the role defined
12 by the Code, an investigation would be undertaken by the
13 Chief Executive, that he didn't have the professional
14 background to investigate, it would be done by someone
15 else, he didn't feel there was any history of animosity
16 between him and you which would bring his impartiality
17 into question and you accepted that but you again stated
18 there had been a clash which went back to the
19 Stuart Syvret --

20 A. Yes, I said it wasn't about personal animosity.
21 Bill Ogley was compromised. He has failed to drag me
22 into getting involved in the dismissal of Stuart Syvret
23 and now it's my turn and I don't think he's competent or
24 appropriate to be adjudicating the matter.

25 Q. So does this minute accurately reflect what was said?

1 A. I would say it reflects what was said, I'm not confident
2 that I could say accurately reflects what was said, but
3 it reflects what was said. That ground was covered at
4 some stage in the discussion.

5 Q. What I'm really asking you to concentrate on is either
6 anything very obvious that is omitted, or anything that
7 is positively inaccurate?

8 A. Yes. I don't say that that's inaccurate.

9 Q. You then asked whether a media statement would be made
10 and stated that the implication of suspension was that
11 you would not return.

12 A. Yes.

13 Q. Did you say that?

14 A. Yes.

15 Q. What was their response?

16 A. "Oh, no, it's a neutral act". "No it isn't, it's
17 a dismissal by stealth. You tell me the last time
18 a chief constable was suspended and then came back to
19 work?" My professional association researched it and
20 could not find a single case in the UK where that had
21 happened.

22 Q. "[Mr Lewis] said a statement would be made in order to
23 deter speculation. [Mr Ogley] explained it would be
24 short and factual and no further comment would be made
25 as all parties were bound by ..."

1 Confidentiality requirements and you said that you
2 would make a short statement vigorously denying any
3 wrongdoing and that if any politician criticised you you
4 would regard the Code as having been broken and would be
5 free to speak out.

6 A. Yes.

7 Q. And there was then a discussion as to whether in fact
8 that was right, or whether it was only ministers --

9 A. My concern was that they had imposed a confidential
10 requirement on me and then the Chief Executive or
11 Chief Minister or Home Affairs Minister wouldn't break
12 it, but they would get some chum in some other part of
13 the government network to do the talking for them and
14 I said a breach by anybody was a breach, that's what
15 I was saying.

16 Q. Does this accurately summarise what was said?

17 A. It summarised some of the things that were said. I'm
18 asking about a media statement and does it say somewhere
19 that they're going to do that?

20 Q. Yes, at paragraph 10:

21 "[Mr Lewis] said a statement would be made [and that
22 is a media statement] in order to deter speculation."

23 A. Well there are significant omissions in there because at
24 that point -- and I forgive anybody who doesn't believe
25 what I say next, it is just true, that Ogley said --

1 they were both stressed. They hadn't expected things to
2 turn the way they did and they hadn't expected me to
3 stand up to them and Lewis was showing it most and Ogley
4 said "Well, we'll have to think about what we're going
5 to say in a media statement", and at this point Lewis
6 jumped in and said "Oh, we don't have to think about it,
7 Bill, because we met and discussed this yesterday and we
8 agreed what we're going to say this afternoon". People
9 are going to say that's not true but he did, he really
10 really said it. And Ogley's trying to get him -- and he
11 starts to run off, he can't stop his tongue, and Ogley
12 is trying to get him to shut up: "Yes all right Andrew,
13 all right Andrew", but it's not working, so there's
14 a lot of talk off-script that went on around that.

15 Q. Finally over the page {WD005903/4}:

16 "[Mr Power] then said he retained the right to
17 defend himself. 'I am not a passive target'."

18 And according to this note the whole meeting took
19 about 35 minutes.

20 A. Yes I think that might be -- could we just go back to
21 the previous one? I just want to make sure there's
22 nothing there.

23 Q. Yes of course. Take your time.

24 A. It's okay, we can go back now to the next one. Thank
25 you. Yes, that is accurate as it is, but there's more

1 unscripted statements made by Lewis at that point. When
2 I say "Look I'm going to fight this every inch of the
3 way, right on the floor of the States if necessary",
4 Lewis says "Well, I wish you success because I think you
5 are an excellent chief officer and I have always been
6 impressed with your performance and I hope you are
7 successful in defending yourself --" and Ogley again is
8 trying to get him to shut up but he can't stop talking
9 again. It is just surreal. Again I forgive everybody
10 who doesn't believe it, it's just true, that's what
11 happened. So that's my how my career ended, in
12 35 minutes without a representative present and for all
13 the talk, no chance of returning to work. And we now
14 know so much more about that, how long it had been
15 planned and all the deceptions that were involved in it.
16 I mean it was clearly a craftily devised, long-running
17 conspiracy between them that they had put this together
18 and made a mess of it on the day, made a mess of it.
19 You know, I described they gave me a piece of paper
20 which referred to an earlier meeting, they forgot to
21 give me one of the letters, all of that, but we will not
22 go into the detail of that because it's documented
23 elsewhere.

24 Yes, so that is -- I can't think of anything more to
25 say on that. Oh, and of course this was allegedly

1 prepared from original notes which Bill Ogley destroyed
2 seemingly straight after he got notification to me that
3 I was taking the matter to judicial review. Yes.

4 Q. Mr Power, I have no more questions. Thank you very
5 much, but please wait there. The Panel may have
6 questions for you.

7 THE CHAIR: Mr Power, there will be some questions from
8 the Panel. Are you all right to continue, or would you
9 like a break? We will be about 15 minutes.

10 A. I think 15 minutes, let's carry on.

11 THE CHAIR: You are quite content to carry on?

12 A. Yes.

13 Questions from THE PANEL

14 THE CHAIR: Professor Cameron.

15 PROFESSOR CAMERON: Mr Power, I don't have many questions to
16 ask. However, I would be interested in when you arrived
17 in Jersey as the Chief Officer what did you do in terms
18 of in effect reviewing your new force to find out what
19 was working and what wasn't working? How did you go
20 about that?

21 A. I had a template provided for me by Colin Smith at HMI
22 who had done a very recent inspection and was on my
23 selection panel, so he prepared my to do list: these are
24 the things that this force needs to put right. And so
25 that was the initial action plan and I worked to that,

1 with the intention of getting a more favourable
2 inspection when whoever it was returned to reinspect.

3 PROFESSOR CAMERON: The issues that you referred to that in
4 time you became aware that there were lots of rumours
5 around in the Force of things that had not been dealt
6 with, how did you as the Chief Officer look to address
7 what I would have thought would be a very serious
8 situation in the Force that there was that around --
9 maybe without very much tangible to it, but how did you
10 go about --

11 A. The rumours about abuse and --

12 PROFESSOR CAMERON: Yes.

13 A. Well, it wasn't -- we are all here to talk about history
14 of abuse, but there was also general that files would go
15 missing; if you knew the right person then being
16 arrested didn't mean you were ever going to go to court.
17 So I have described elsewhere that one example of some
18 drink driving cases that we couldn't find and the papers
19 were in a centener's shed and we -- you know, you had
20 all sorts of suspicions about the integrity of the
21 process. I went to a force in the UK and we brought in
22 a computer system which would audit trail every case, so
23 within as quickly as I could do it I could sit at home
24 on an evening and look at an arrest say, or a report of
25 a crime and I could follow it through the arrest, the

1 whole thing, and I could see that there was a beginning,
2 a middle and an end to it and assess the quality and
3 also you do line management, hold line managers
4 responsible for the quality that's delivered in their
5 department, you know, you had to do that as well.

6 PROFESSOR CAMERON: But it sounds like you were becoming
7 aware as the Chief that there were officers in your
8 force who were at best incompetent and at worst corrupt.

9 A. Yes.

10 PROFESSOR CAMERON: Was that a matter that you had hoped to
11 bring someone in to investigate on your behalf?

12 A. Your role is to investigate every specific allegation.
13 But I mean incompetent, yes, so we beefed up the
14 appraisal system, brought in an absent management
15 system, a programme that would identify people who had
16 persistent sick leave problems, that sort of thing, you
17 know, flush people who were hiding in offices claiming
18 they were injured when they weren't, but bringing
19 outside force, yes, there was a number of cases of
20 outside forces brought in to look at discipline -- but
21 it seemed to me that this was putting out individual
22 fires without actually looking at the big picture, so
23 I was fire-fighting initially and then you look for
24 somebody -- when the Deputy's job becomes vacant you
25 look for somebody who is going to be very dependable and

1 who is going to be your big hitter who is going to take
2 on the issue in the round about standards.

3 PROFESSOR CAMERON: Just to come to that then, when you
4 appointed Mr Harper and then where subsequently he
5 became the SIO, that would be, would it not, a very
6 unusual thing for a deputy chief to be involved in
7 an operational matter in that way?

8 A. Yes, it would never happen in a UK force, but in a UK
9 force you had a big -- you had perhaps five
10 chief officers on the one corridor and the chief, the
11 deputy and the assistants would all have thematic
12 responsibilities and only in a very -- and you would
13 have a team of chief superintendents, senior detectives
14 who were trained to manage big cases. I mean we just
15 had gaps in the rank structure. We didn't have
16 a detective chief superintendent and we didn't have an
17 executive team in the same way that a UK force would do.

18 PROFESSOR CAMERON: Mr Harper came to you from Strathclyde.
19 Had he been a detective in Strathclyde?

20 A. No, he had been a uniformed officer in Strathclyde. He
21 had been a detective in the Metropolitan Police and also
22 in Northern Ireland.

23 PROFESSOR CAMERON: And that was some time ago?

24 A. Well, it hadn't been that many years ago, but it hadn't
25 been in the immediate past, but he had serious detective

1 experience at a very high level, yes.

2 PROFESSOR CAMERON: Okay. Notwithstanding that then you
3 nonetheless felt that it was appropriate for him, as
4 Deputy -- what that meant for the rest of the Force?

5 A. Well, it was because of the professional standards
6 implications that he was the one who -- so he could deal
7 with the professional standards implications arising out
8 of Rectangle. There wasn't a massive choice, can I say,
9 you know. He was not the obvious and natural choice in
10 the sense that well, in these circumstances you're
11 always going to put a deputy in charge, but who else?
12 You know, finding another senior officer within
13 the Force at the time who did not have any baggage from
14 the time in question would have been hard.

15 PROFESSOR CAMERON: But was there not -- clearly the role of
16 the Deputy is very much about professional standards.

17 A. Yes.

18 PROFESSOR CAMERON: Was there not a potential conflict being
19 created if the person who had that responsibility was
20 also the investigator of the allegations?

21 A. Yes, yes, and I think we dealt with that by making
22 Shaun Du Val the Deputy and so he would then be
23 designated to fulfil the role if Lenny referred any
24 cases to him. If Lenny thought he had a disciplinary
25 issue he would have had to refer it to Shaun. That was

1 the arrangement I put in place.

2 PROFESSOR CAMERON: So in effect Mr Harper had been moved
3 out of the professional standards role and somebody else
4 put into that role?

5 A. Yes, I think you have explained it better than me, yes.

6 PROFESSOR CAMERON: Would it not have been more logical to
7 do it the other way round?

8 A. I don't think Shaun was equipped to deal -- he couldn't
9 lead the investigation. Excellent man, but he didn't
10 have the skills and the background, if that's what
11 you're suggesting.

12 PROFESSOR CAMERON: In terms of when you looked at family
13 protection and all the other issues, what kind of
14 contact as the Chief did you have with other chief
15 officials, for instance did you have any kind of routine
16 liaison with the Director of Children's Services?

17 A. We would meet as part of the corporate -- all senior
18 executives would meet as part of a corporate management
19 board and we could informally share any concerns we had
20 in that.

21 PROFESSOR CAMERON: But you didn't have an arrangement
22 whereby you sat down with --

23 A. No. No, that was a different operational level.

24 PROFESSOR CAMERON: In terms of the points that you have
25 made about your concern about the role of the

1 Attorney General in Jersey as the legal advisor to
2 the States and the Prosecutor, is that not also the case
3 in other jurisdictions? In Scotland, which you and
4 I know, the Lord Advocate is also a member of the
5 Government and the head of the Prosecution Service.

6 A. Yes, well --

7 PROFESSOR CAMERON: So what makes it different?

8 A. I think the small size of the community, the rotating
9 hierarchy and the inherited baggage from previous
10 decisions, and I don't know what arrangements they now
11 have in place in Scotland, but you're talking -- you
12 know, the Government does different things. I'm quite
13 aware with Police Scotland -- the issue might be
14 different now, but in my time any civil allegations
15 against for example Lothian and Borders Police would be
16 passed to the Lothian and Borders Police Authority who
17 would rely on Edinburgh City Council legal advice so
18 there was no conflict at all, the Fiscal wouldn't get
19 a nose on any of that.

20 PROFESSOR CAMERON: So is the issue that caused you concern
21 in Jersey to do with the size that Jersey was?

22 A. Yes.

23 PROFESSOR CAMERON: The proximity of roles?

24 A. The size and the proximity of roles -- I have described
25 how in Scotland a claim against a police authority would

1 go nowhere near the Crown. Yes, it is perceived as
2 a conflict of interest.

3 PROFESSOR CAMERON: Can I just ask finally, just so I'm
4 understanding, because I'm not sure I'm absolutely
5 following this, in terms of the email exchanges that we
6 looked at with Mr Minty, the original email at the
7 beginning of that talks about the Attorney General
8 having a confidential word with Bill Ogley and to put
9 him on notice about concerns which have been expressed
10 in relation to Children's Services and some of their
11 decisions and:

12 "The AG has asked me to confirm that it is agreed
13 that he should give Bill a confidential briefing."

14 Two points here: one is that seems to me that is
15 seeking agreement as to whether that should happen or
16 not and it would have been perfectly possible for you to
17 say "No I don't think that should happen"; but would it
18 not also be fairly normal practice on a matter of
19 serious concern that there might be an alert to the head
20 of the paid service, probably the chief executive, that
21 there was an issue, so was that in itself something that
22 was sinister because you began to get a clear feel that
23 this was a sinister move?

24 A. Yes, I wouldn't -- I didn't use the term "sinister".

25 PROFESSOR CAMERON: No, my word.

1 A. No, no. What's he going to say? I mean what we're
2 asking for is does the law say what he thinks it says so
3 that we can consider whether there should be a criminal
4 investigation. Now, if there's a criminal
5 investigation, everything becomes disclosable, including
6 a conversation between the Attorney General and the
7 Chief Executive. I mean how is that going to look?
8 Does it destroy the prospect -- does it compromise
9 a possible investigation? I can't see how that could be
10 done, what was proposed, in a sort of ethical
11 transparent way that didn't leave an uncomfortable
12 feeling that this was being quietly buried.

13 PROFESSOR CAMERON: Might there nonetheless have been
14 a situation of sufficient concern that the
15 Chief Executive might have wanted to discuss with the AG
16 and with yourself whether any immediate action was going
17 to be taken?

18 A. I want to know what the law is. I will decide whether
19 there is going to be a criminal investigation, if
20 someone will tell me whether the law creates
21 a reasonable suspicion. I think it's okay for the
22 Attorney General to say "I think you're mistaken about
23 the criminal law, I do not think you can properly engage
24 in a criminal investigation and so it has to be resolved
25 in another way, and the other way is that I'm going to

1 sit down with the Chief Executive, possibly involving
2 you, and we're going to express serious concerns and
3 invite him to take some action"; that's perfectly
4 legitimate. Once you have taken the possibility of
5 a criminal investigation off the table, let's all do
6 that, but I wanted to know whether the possibility of
7 a criminal investigation is on the table or not.

8 PROFESSOR CAMERON: Thank you for that clarification.

9 That's helpful. Thank you. I have no other questions.

10 THE CHAIR: Can I just pick up something in relation to the
11 investigation. You said, Mr Power, at one stage and
12 I quote you, the investigation was "leaking like
13 a sieve".

14 A. Yes.

15 THE CHAIR: Was that down merely, do you with your
16 experience believe, to the size of the Island, or were
17 there other reasons for why it was leaking like a sieve?

18 A. I think there was some compromise of some of the people
19 who were brought in. I remember Lenny Harper sent some
20 people back to the UK, that he had done some work and he
21 was satisfied that they were communicating with
22 journalists. I think there was technically -- I now
23 believe there must have been technical intrusion into
24 some of our communications by journalists. I just don't
25 know how the News of the World --

1 THE CHAIR: You didn't believe that -- you didn't know or
2 suspect that at the time, technical intrusion?

3 A. No, I didn't suspect that -- I had seen long range
4 microphones pointed at me and that sort of thing, but we
5 were very concerned about the amount of information that
6 was reaching the media through unknown sources.

7 THE CHAIR: Thank you for that clarification. Ms Leslie.

8 MS LESLIE: Thank you. I have just got two areas I want to
9 ask you about, Mr Power, and the first one is quite
10 simply the meeting of 12 November 2008, did you receive
11 a copy of the notes, either in their final or in draft
12 form after that meeting?

13 A. Yes, I did, I received that document, ma'am, we have
14 seen on the screen and I said straight away -- I wrote
15 back and put on record "This is not true, please can
16 I have a photocopy of the original notes", yes.

17 MS LESLIE: And the second area I want to ask you about
18 relates to the case that Professor Cameron mentioned to
19 you, the one that Mr Minty brought to your attention.

20 A. Yes.

21 MS LESLIE: We have heard a lot of evidence from
22 police officers and from members of Children's Services
23 about the joint working arrangements from 2000 onwards
24 where there were meetings between the Family Protection
25 Unit and Children's Services, we have heard about joint

1 strategy meetings and a number of decisions that were
2 being taken either in consultation, or together. In the
3 light of potential involvement of your Family Protection
4 Unit in that case, was that aspect considered when the
5 information was brought to your attention that there
6 were concerns about decisions in this particular case?

7 A. I mean I think I've got to draw a distinction here that
8 what was brought to my attention was not concerns
9 about -- it's very easy to address, through the
10 mechanism you have described, concerns -- professional
11 concerns about the professional -- that was not what was
12 being brought to my attention. What was being brought
13 to my attention is "There is a possibility that this
14 amounts to a criminal offence", in which case for the
15 reasons I think I have given to the Professor, all
16 communication, informal communication was out of bounds.
17 Until I've got an answer to that question, until
18 somebody has said "No, there can be no criminal
19 investigation because the law doesn't cover this" then
20 we have to say it's a potential criminal inquiry.

21 MS LESLIE: Did you as a preliminary step however say to
22 someone "Look, can you go and have a look at our records
23 to see has this been a case that has perhaps come to the
24 Family Protection Unit, were we involved in any
25 decisions or discussions about the case?"; was that

1 preliminary piece of work done?

2 A. I would have had that discussion. I didn't go and look
3 at it personally, but I know that we -- I was told that
4 we had been involved in some prosecution subsequent to
5 the abuse which occurred and it was during that
6 prosecution that it emerged that the housing of these
7 children -- I was told -- and I do not have direct
8 knowledge, but I was told that the children had been
9 located contrary to very specific legal advice. That's
10 what I was being told and so I thought "You've got to
11 clear the air on that first." There might be a point --
12 when the possibility of a criminal investigation is off
13 the table you can then hammer it all out through
14 whatever partnerships or processes you have, but you
15 can't be having conversations -- there's no such thing
16 as a conversation off record or an informal discussion
17 when you're in a potential criminal investigation, so,
18 you know, I would have to say if say the head of
19 Children's Services had rang me or the Director of
20 Social Services or whatever, I would have to say "I'll
21 have a conversation with you, I'm going to have to write
22 it down. Until I'm told that this is not going to end
23 up in a criminal court, everything is on record." So
24 you couldn't really sit down and have the same sort of
25 partnership working that you could if it was simply

1 a matter of concerns about the management of that.

2 MS LESLIE: I understand that and you make that point well,
3 but I was more concerned with looking internally as
4 a starting point before going and saying "We need to see
5 what do we know about the case, what information do we
6 have" and is your response that "We did some kind of
7 exercise"?

8 A. I think -- my recollection is when David came to me he
9 said that he had looked at the whole business and
10 I didn't think necessary to say "Bring it to me to look
11 at a second time", but there is a question he needed
12 an answer to: was he right in his belief -- I said "We
13 have to tick that box first. Find out what it is we're
14 dealing with and then we will deal with it" and that was
15 what I was attempting to do.

16 MS LESLIE: Thank you.

17 THE CHAIR: Are there any questions from you, Ms McGahey,
18 arising from the Panel's questions?

19 MS MCGAHEY: No thank you, Madam.

20 THE CHAIR: Mr Power, at 5 o'clock now on day 2 it just
21 remains for me on behalf of the Panel to thank you for
22 attending to give your evidence and thereby your
23 contribution to the work of this Independent Inquiry.
24 Thank you. I know you have travelled some distance so
25 we wish you safe travel home.

1 Ms McGahey, we will not be sitting tomorrow.

2 The Inquiry's work will be continuing next week and we

3 will be sitting again the week commencing 16 November.

4 (5.00 pm)

5 (The Inquiry adjourned until Tuesday 17 November 2015)

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