

CHAPTER 10

The Response by the States of Jersey Police to Concerns of Abuse

10.1 In analysing the Police response under Term of Reference 11, it is necessary to consider the structure and development of the States of Jersey Police (SOJP), in particular with reference to Operation Rectangle and to the action taken where abuse was suspected.

The States of Jersey Police: background

10.2 The SOJP is a professional Police service with paid officers and staff. The Chief Officer is accountable to the Minister for Home Affairs.

10.3 Graham Power was the Deputy Chief Constable of Lothian and Borders Police and a member of HM Inspectorate of Constabulary, Scotland, before his appointment as Chief Officer of the SOJP in 2000.

10.4 Graham Power recognised in the early days of his tenure the need for a specialist senior CID officer. The President of the Home Affairs Committee resolved that the appointee must come from outside Jersey. This inevitably generated some resentment but nonetheless Lenny Harper, an officer who had served with the Metropolitan Police, Royal Ulster Constabulary and Strathclyde Police, was appointed Chief Superintendent and Deputy Chief Officer (DCO) designate. He was appointed Deputy Chief Officer in 2003.

10.5 Graham Power's evidence was that he had told the appointments board that Lenny Harper was an uncompromising man who would be a bold choice for the SOJP; he would "rattle cages" and would be relentless on ethical issues.¹ Lenny Harper told the Inquiry:

" ... People who found me abrasive were those who were breaking the rules and who were bullying or doing other things. For every one that found me abrasive I have letters and emails from people who appreciated me being abrasive with people who were causing them

¹ WS000536/11

*severe problems. As for – I could never have carried out the job that Graham Power was doing. My forte was operational Police work and investigations and I would not have been happy doing the Chief Officer role and it was never ever my wish to take on that role.*²

- 10.6 Graham Power identified as an inevitable aspect of island policing the fact that everyone knew everyone else. It was often necessary to take disciplinary action that could have been avoided in a larger Police service; in a large service, an officer at fault could be transferred to a distant station for a fresh start, something that was not possible in Jersey. On the other hand, there was a huge advantage, he told the Inquiry, in having officers policing the community in which they lived; the officers were motivated by their knowledge that their service affected their own community, and officers picked up local knowledge; these factors were rarely present in UK policing.³
- 10.7 When Graham Power arrived in 2000, it was the established practice for major investigations to seek assistance from Devon and Cornwall Police. SOJP officers did not have the necessary skills, training or experience and the SOJP did not have a HOLMES computer, which was needed to manage a major enquiry.⁴
- 10.8 Many officers, in their evidence to the Inquiry, recognised that the rarity of serious crime in Jersey meant that senior officers would often not have the experience that officers of similar rank in the UK would have.
- 10.9 Force Legal Advisers have worked with the SOJP since the 1980s, and give advice on the preparation of cases. They also provide advice to the Honorary Police (described in more detail below). Force Legal Advisers are based in SOJP headquarters but are employed by the Law Officers' Department (LOD). During Sir Michael Birt QC's tenure as Attorney General, the law changed to enable Force Legal Advisers to appear in the Magistrate's Court even though they were not qualified Jersey lawyers or Crown Advocates.⁵ Since 2007, Centeniers of the Honorary Police have not had the power to prosecute those entering not guilty pleas, and the Force Legal Advisers undertake this work.

² Day 121/19

³ Day 106/98

⁴ Day 106/100

⁵ Day 131/12

10.10 Bridget Shaw came to Jersey from the UK in 1998, to become a Force Legal Adviser. She told the Inquiry that the Force Legal Advisers had a good working relationship with the Centeniers.

10.11 She explained that a Centenier may handle simple preliminary matters in child abuse cases (such as bail) but such cases then go on to the Royal Court and are handled by a Crown Advocate. She said that sometimes a Centenier sought to retain control of a case that the Force Legal Advisers thought should be handled by them. However, she could not recall any instance in which a Centenier had attempted to retain control of any serious case of child abuse.⁶

The Honorary Police: background

10.12 There are 12 Honorary Police Services in Jersey – one for each of the 12 Parishes. Each Police service is headed by a Connétable; below the Connétable are Centeniers, Vingteniers and Constable's Officers. The most senior Centenier in each Parish is known as the Chef de Police. Each officer is a volunteer. There are approximately 240 Honorary Police officers in Jersey.⁷

10.13 The Inquiry heard detailed evidence from Daniel Scaife, Chef de Police in St Helier, and Robert le Brocq, a former Connétable, about the structure and organisation of the Honorary Police.⁸

10.14 The SOJP may arrest a suspect but do not have the power to charge him or her with an offence. The decision whether to charge lies with the Centeniers in the Parish in which the offence was committed. If the SOJP wish an alleged offender to be charged they present a Centenier with the results of their investigation for his consideration. The Centenier may also receive written advice from the LOD or Crown Advocates. If that advice is to charge the suspect then the Centenier would do so. The SOJP do not consult a Centenier if the SOJP decide that charging would be inappropriate.⁹

⁶ Day 119/10

⁷ WS000657/1

⁸ WS000657; Day 108/55

⁹ WS0655/3; Day 114/107; WS000657/7

- 10.15 In deciding whether to prosecute, the Centenier follows the Code on the Decision to Prosecute. A two-stage test is applied: first, is there sufficient evidence to provide a realistic prospect of conviction? If that test is met, he considers the second stage, which is whether prosecution is in the public interest.¹⁰
- 10.16 Deputy Bob Hill made the criticism that the number of Parishes, and therefore of Centeniers, meant that there was a risk of inconsistent decision making.¹¹
- 10.17 Robert Bonney, a retired DI who served in the SOJP from 1977 to 2005, said that the Centenier was usually willing to accept the Police recommendation to charge. If the Centenier was unwilling to charge the alleged offender then the SOJP could approach the Law Officers and request a decision from the Attorney General. Sometimes, to the frustration of the SOJP, a Centenier would refuse to charge but would take a lesser course, such as referring the alleged offender to a Parish Hall Enquiry, which was under the jurisdiction of the Honorary Police and could impose lesser sanctions than those available to a Court. Robert Bonney said that he was not aware of any Centenier deliberately shielding an individual from prosecution.¹²

The role of Centeniers in the prosecution of child abuse cases

- 10.18 In the early 1990s, both the SOJP and Children's Services were expressing concern about the role of Centeniers in child abuse cases. One particular Centenier was thought to be unwilling to pursue such cases. Anton Skinner, then the Children's Officer, wrote to the Bailiff in 1991, expressing concern about the lack of protection of child witnesses in the Magistrate's Court, caused in his view by the fact that Centeniers, not professional prosecutors, presented the cases.¹³
- 10.19 In 1993, Marnie Baudains, then Head of Children's Services, wrote a paper for the Working Party in Child Abuse Cases. She identified a number of difficulties in the prosecution of child abuse cases. She also took the view that these problems arose from the fact that a Centenier, not a lawyer, was

¹⁰ WS000657/8; WD 008454/2

¹¹ Day 104/98

¹² WS000655/3

¹³ WS00002/11–15; Day 126/170; WD007333

responsible for the prosecution up to and including the Magistrate's Court stage.¹⁴ The Working Party concluded that the task should be undertaken by legally qualified prosecutors.¹⁵

10.20 The criticisms were well founded but changes made in recent years (including those summarised above) have addressed the failings identified. Barry Faudemer was head of the Family Protection Unit (FPT) of the SOJP as a DS from 1994 to 1996 and the DI in charge of CID with responsibility for the FPT from 1998 to 2001.¹⁶ He said in evidence to the Inquiry that when he was a DI in the Operational Support Unit from 1996 to 1997 he encountered no particular difficulties in decision-making by Centeniers, as by that date they were assisted by lawyers when dealing with child abuse cases. He was not aware of any child protection cases being abandoned in circumstances in which the Police wanted to proceed.¹⁷

The division of responsibility between the States of Jersey Police and the Honorary Police

10.21 The Inquiry was shown the Jersey Child Protection Committee (JCPC) Child Protection Guidelines, drawn up by the FPT in 1998/1999. They included guidance that instructed all Honorary Officers to discuss any concerns about child abuse with their Centeniers. Furthermore, it was the responsibility of the Duty Centenier of the Parish to report all cases of suspected child abuse to the FPT.¹⁸

10.22 Under Chief Officer Graham Power's leadership, a memorandum of understanding was drawn up that identified which of the Police services would be responsible for different categories of crime. Serious crimes were reserved to the SOJP. Domestic abuse cases were removed from the Honorary Police as there were concerns that they were not taking such cases sufficiently

¹⁴ WD008662/408

¹⁵ WD008345/50

¹⁶ WS000652/2

¹⁷ Day 113/62

¹⁸ WD08345/79

seriously, and were sometimes diverting cases inappropriately to Parish Hall Enquiries.¹⁹

10.23 DCI André Bonjour said that, in his view, the Parish Hall Enquiry system was not the right place for domestic violence issues to be addressed.²⁰

10.24 DCI Alison Fossey of the SOJP said that she was aware of Parish Hall Enquiries handling child abuse cases. In her view, while it might be appropriate for some cases of very low-level neglect or assault, all other child abuse cases should go to court.

10.25 On 8 March 2006, Bridget Shaw wrote an email to DCI Alison Fossey, then a DS within the SOJP FPT, setting out her recollection that the Attorney General had issued guidance to say that cases of child neglect and cruelty should not go to a Parish Hall Enquiry. DCI Alison Fossey told us that thereafter further guidance was issued, practices changed and it was very rare for abuse cases to be sent to a Parish Hall Enquiry.²¹

Public Protection Unit: history

10.26 This unit was founded by the SOJP, as the Child Protection Team (CPT). In order to assist the reader to follow events involving this unit, a brief chronology, identifying the officers who gave evidence to the Inquiry and who served in, or were in charge of, the Unit, follows:

- November 1991–January 1995: DS David Morgan in charge
- 1993: Anton Cornelissen seconded for a few months
- 1993: Anton Cornelissen in Administrative Support Unit but involved with FPT work
- 1994–1996: DS Barry Faudemer in charge
- 1995: DC Emma Coxshall was seconded for two months to the FPT
- 1996: Anton Cornelissen returned in charge of the FPT
- 1997–2006: DC Emma Coxshall worked in FPT
- 1998–c.2001: DI Faudemer in charge of CID, with responsibility for FPT

¹⁹ Day 106/107; 140

²⁰ Day 109/122

²¹ Day 117/25; WS000687/4

- 2001–2005: DI Robert Bonney in charge of CID, with responsibility for FPT until retirement in 2005
- 2002: DC Brian Carter (joined SOJP 1998) became a member of the FPT until retirement in 2007
- January 2003–May 2007: André Bonjour was Chief Inspector for Crime Services
- August 2005–June 2006: Peter Howlett was a DS in the Unit
- December 2005: DS Alison Fossey (joined SOJP 2002 as a DC) in charge of the FPT
- January 2006–April 2008: Alison Fossey in charge, first as a DS and then a DI. (From April 2008 to October 2010, DI Alison Fossey was the Deputy SIO and then SIO of Operation Rectangle)
- June 2010–February 2013: André Bonjour returned to head Crime Services as Acting Superintendent, a post made substantive in June 2011
- June 2011 onwards: DCI Alison Fossey, DCI for Crime Operations.

10.27 The original Unit was established, as stated above, in 1989. It was dedicated to the investigation of child abuse.²²

10.28 In the 1990s the team, then known as the FPT, focused on domestic violence and both physical and sexual offences against children. In 2007 the FPT was renamed the PPU to reflect the fact that the victims of sex offences were not exclusively children or family members.²³

10.29 An examination of the history of the Unit assists in considering whether the SOJP now has, or from the 1990s had, the expertise necessary to investigate child abuse cases. The Inquiry did not hear sufficient evidence of policing practices and policies before the 1990s to form any concluded view about the investigation of such cases at any earlier time.

10.30 The Inquiry heard evidence from a number of former members of the Unit. David Morgan was the DS in charge of the FPU between November 1991 and January 1995. Initially the Unit only had two detectives but this was a significant commitment as the whole of CID comprised approximately 10

²² WS000652/1; Day 113/5

²³ WD008326/103

officers. Until 2006, the Unit was headed by a DS. Thereafter the Unit was headed by its own DI with DI Alison Fossey the first to hold the post.

10.31 DS David Morgan, on taking up his post, undertook a “vulnerable victims” course at the Home Office detective training school in Kent. He subsequently attended joint training courses in Jersey with CCOs from Children’s Services. This included training in interviewing child victims and in giving evidence in court.²⁴

10.32 David Morgan said that the multi-disciplinary FPT worked closely with CCOs and held a meeting every Friday. They worked in accordance with the 1991 UK manual “Working Together”.²⁵

10.33 From 1994 to 1996, DS Barry Faudemer was head of the Unit and, from 1998 to 2001, he was the DI in charge of CID, with responsibility for the FPT.²⁶ He increased the team to four full-time officers. There is evidence that the Unit flourished under the leadership of Barry Faudemer, and a number of witnesses identified his commitment to the work.

10.34 Barry Faudemer told the Inquiry that he pioneered the use of covert techniques for gathering evidence in FPT cases and he also sought to raise awareness of abuse. He initiated a poster campaign in the mid-1990s and participated in media articles. His predecessor, DS David Morgan, started the work of raising the profile of this type of offending and was the driving force behind the introduction of legislation banning child pornography.²⁷

Public Protection Unit: resources

10.35 Barry Faudemer believed that the FPT was given adequate resources. Four officers were “*a large chunk of CID*”. He recognised that there were competing pressures for resources. He did not believe that a lack of resources had ever led to a child being put at risk or to an existing risk being prolonged.²⁸

²⁴ WS00022/2

²⁵ Day 126/157

²⁶ WS000652/2

²⁷ Day 113/10; WS000652/20; Day 126/182

²⁸ Day 113/15

- 10.36 Robert Bonney was the DI of the CID and FPT from about 2001 to 2005. He was able to identify child protection issues arising from CID work and ensure that the right staff were deployed. He also believed that the FPT had sufficient resources to deal with its work.²⁹
- 10.37 Chief Officer Graham Power acknowledged that the Unit, in the early days of his tenure, was under-resourced and not performing well. He accepted that he had failed initially to realise that there were problems. However, in 2006 he initiated a series of changes. Alison Fossey, at that time the DS at the FPT, was promoted and became the team's DI. She had specialist knowledge in the area of child protection.³⁰
- 10.38 Graham Power told the Inquiry that DI Fossey inspected the Unit, using a Protocol from Her Majesty's Inspectorate of Constabulary, and compared the Unit's performance against expectations. The results were poor; there was no proper workload management, and no formal arrangements for sharing information with other agencies. Chief Officer Graham Power supported DI Alison Fossey in making the necessary changes.³¹ Those included drafting agreements on multi-agency working, such as sharing of information with Children's Services.³²
- 10.39 The arrival of Alison Fossey led to significant changes in the FPT. She updated the record-keeping system and provided a higher level of supervision. A former DC in the FPT (2002–2007), Brian Carter, said that "*things improved dramatically*" once DI Alison Fossey was in charge.³³
- 10.40 In June, July and August 2006, Alison Fossey sent a series of emails to DCI André Bonjour stating that the FPT was under resourced, that it might have to decide which cases it would not investigate and that the team was "*continually firefighting*".³⁴
- 10.41 In evidence to the Inquiry, André Bonjour accepted that the Unit did not have sufficient resources to deal with every case in which a child could be at risk.

²⁹ WS000655/2

³⁰ WS000687/1

³¹ Day 106/129; WS000536/32

³² Day 106/167

³³ WS00647/15

³⁴ WD008688/19; WD008688/21; WD008283/3

He said that specialist officers in one field could not be taken away from their day-to-day work to provide resources to another department. He referred to the importance to Jersey of the finance industry. He said that the States of Jersey had made funds available for the recruitment of staff to the Joint Financial Crimes Unit, following scrutiny by the International Monetary Fund.³⁵ The importance accorded in Jersey to the finance industry was a recurring theme in evidence before the Inquiry. It is right, though, to note that André Bonjour also emphasised, in his oral evidence, that no type of crime was prioritised over another, save that offences against people were more important than offences against property.³⁶ He also, in his statement, said that a States of Jersey fundamental spending review in 2002/2003 left the SOJP Crime Services Units, including the FPT, suffering from budget reduction and scarcity of resources.³⁷

10.42 Alison Fossey said: *“I do feel that tougher, more informed decisions should have been taken when it came to allocating resources between the CID units and the force more generally.”*³⁸ In her oral evidence DCI Alison Fossey was asked why she thought that in 2006 the FPT had not been given the resources needed. Her reply was:

*“A lack of understanding of threat, harm and risk. To me child protection presents the biggest threat and risk to any Police force in the country. Jersey didn’t recognise that, therefore the resources did not get prioritised to that.”*³⁹

10.43 The Panel accepts that the Unit was under-resourced at that time, and acknowledges that there may have been a failure on the part of more senior officers to recognise the extent of the risks involved in child protection policing. We do, though, accept the evidence of Graham Power, who said that nobody deliberately starved the FPT of funds, and that DI Alison Fossey inherited what was believed to be the correct staffing level.⁴⁰ André Bonjour told us (and pointed out to Alison Fossey in 2006) that hers was the only

³⁵ WS000642/7

³⁶ Day 109/88–90

³⁷ WS000642/6

³⁸ WS000687/6

³⁹ Day 117/42

⁴⁰ Day 106/165

department that was fully staffed. The email correspondence demonstrates that he was making efforts to provide additional staff.

10.44 We also have to recognise the realities faced by the SOJP. In 2006, Alison Fossey was a DS and then DI, fighting for the resources that she knew the FPT needed. More senior officers had to allocate limited resources across all Crime Services units. Those officers would have had a broader knowledge than she had of the resourcing needs of the SOJP as a whole. We accept the evidence of André Bonjour about the effect of the spending review on the SOJP.⁴¹ John Pearson confirmed the position, telling us that, during his tenure as Head of Operations (late 2003–2007), all departments were “*crying out*” for more resources.⁴²

10.45 We accept the evidence of DCI Fossey that the Unit’s performance has improved very significantly since 2006. While we have no doubt that she is right to say that the Unit faces a “constant battle for resources”,⁴³ that is an inevitable feature of any publicly funded service.

Public Protection Unit: policies and practices in recent years

10.46 DCI Fossey told us that, when she joined the FPT in December 2005, it was immediately apparent to her that the policies and practices were far behind what was considered best practice in the UK. She noted that while there were investigations, there were few prosecutions. One of her main concerns was that the FPT was leaving it to social workers to assess the situation and determine whether a criminal investigation was required. Children’s Services reacted positively to her requirement for the Police to attend these early enquiries with social workers. The Emergency Response Team of Children Services knew that the Police would support them.⁴⁴

10.47 In this section of the Report we have concentrated on SOJP policies, practices and training from 1989 onwards. We have done so because 1989 marks a significant change in child protection work within Jersey policing, with the foundation of the CPT. We have seen a number of policy documents that

⁴¹ WS000642/6

⁴² WS000685/5

⁴³ WS000687/67

⁴⁴ Day 117/20

have been in use during the existence of the Unit. In general terms, those policies have either been UK ones, or have mirrored those in use in the UK. DS Barry Faudemer and then DI Alison Fossey, both of whom had received training in the UK, produced their own policies for use in the Unit. Each of them headed the Unit during some of the most successful periods of its history. We address below the SOJP's practice of adopting UK training for the Unit's officers. That practice in itself would inevitably have guided the Unit's choice and application of policies. We have reached the conclusion that the policies and practices of the Unit have at all material times been adequate for the tasks that the Unit was required to undertake. We note DCI Alison Fossey's evidence that, on her arrival, policies and practices did not meet the standards of UK best practice. It seems to us, though, that the flaws may have lain predominantly in the implementation of policy, rather than in the policies themselves. She had inherited an under-resourced team which had, in its recent past, been headed by a number of sergeants, some of whom had not had an interest in this type of work; standards had slipped and morale was low. As DCI Fossey noted in her evidence to us, while she had experienced officers, they needed continuous professional development.⁴⁵

10.48 It is clear from the evidence that the work of the FPT has progressed over the years. DS David Morgan's and DS Barry Faudemer's contributions helped to raise the profile of child abuse in the early 1990s and encourage reporting. Barry Faudemer pioneered techniques and updated policing practices. However, Graham Power acknowledged that, by 2006, the Unit was under-resourced. Thereafter, the appointment of Alison Fossey as the first DI to head the Unit clearly had a positive impact.

10.49 We accept the evidence of DCI Alison Fossey that the FPT (now known as the PPU) has improved dramatically as of today. The Unit has kept up to date with the latest training, ACPO guidance and HMIC reports. The introduction of the Multi-Agency Safeguarding Hub (MASH), which we discuss below, has led

⁴⁵ Day 117/17-18, 22

to improvements in information sharing. Policies and procedures are regularly reviewed and multi-agency working is more successful.⁴⁶

Public Protection Unit: training

10.50 The practice of sending officers to the UK for training assisted in bringing FPT officers up to speed with current practice in the UK, such as interviewing of child witnesses through the “Achieving Best Evidence” (ABE) course.

10.51 The foundation Child Abuse Multi-Agency Training (CAMAT) that Barry Faudemer underwent in 1994/95 in Devon was significant for the FPT. He told the Inquiry that the course was attended by teachers, social workers and health visitors; of the 30 participants he was one of two Police officers. He told the Inquiry that this was the first occasion on which a SOJP officer had participated in joint training in the UK, (although DS David Morgan also said that he had attended multi-agency training in Jersey, as above). During one of the exercises, he was appalled to realise that professionals working with children were very reluctant to report abuse until a late stage. He surmised that the same would be true in Jersey and raised the issue with Marnie Baudains on his return. He then secured similar training for all new officers of the FPT and encouraged Children’s Services officers to attend.

“Following my attendance at the CAMAT course I found that levels of awareness started to rise and there was a realisation that historic abuse cases were very important and that as a Police force we needed to marshal the evidence and grasp opportunities to put the pieces of the jigsaw together ...”⁴⁷

10.52 Brian Carter was a member of the FPT from 2002 to 2007 and then a civilian investigator on Operation Rectangle. By the time he gave evidence to the Inquiry he was a civilian child protection case conference liaison officer. This was a role created in 2012 and entailed his attendance (in place of a Police officer) at child protection case conferences.

⁴⁶ WS000687/65

⁴⁷ WS000652/6

10.53 Brian Carter said that while there was initially no training he subsequently went on child protection courses and the ABE course that addressed techniques to be used for interviewing children.⁴⁸

10.54 Anton Cornelissen said that, by 2006, there was “a *whole host*” of policies relating to child protection work, and that it was up to officers to make themselves familiar with those policies. The team was very well run and officers were encouraged to ask more senior officers for advice.⁴⁹

10.55 Brian Carter said that the present situation was much better than it had been when he was working in the Unit:

“There is a greater package of care available with the multi-agency approach ... States of Jersey Police are better equipped/trained to deal with safeguarding matters.”⁵⁰

10.56 We accept that current levels of training within the SOJP are sufficient to enable the Unit’s officers to discharge their duties properly.

The relationship between the States of Jersey Police and other agencies

10.57 Barry Faudemer said that, in the early 1980s, the level of interaction between SOJP and Children’s Services was “*probably fairly limited*”. It was only when the CPT was set up in 1989 that they began to work together more effectively.⁵¹

10.58 Barry Faudemer said that he had a very good working relationship with Marnie Baudains, head of the CPT within Social Services. Both were passionate about child protection and if either had a criticism of the other’s service they could discuss the problem constructively. Barry Faudemer thought that their co-operation enabled issues to be addressed quickly and improved the outcome of investigations. During his tenure, referrals to the FPT from Children’s Services increased.⁵² There were weekly meetings and these were the principal means of sharing information.⁵³

⁴⁸ Day 103/7

⁴⁹ Day 102/103

⁵⁰ WS00300647/3

⁵¹ WS000652/7

⁵² Day 113/39, 42

⁵³ Day 113/45

10.59 DCI Alison Fossey said that information sharing with other agencies, particularly the HSS, and Education Departments is crucial. We agree. She said that, in 2006, obtaining health information was particularly difficult but that this issue had been addressed with the establishment of the MASH.⁵⁴ There were also difficulties during her tenure, she said, in obtaining information out of hours from Children's Services. The Police had no out of hours' access to the At Risk Register; in an emergency they had to contact the duty CCO by telephoning the hospital switchboard. The duty officer would return the call but was often reluctant to come out at night. The duty officer had no access at home to Children's Services records and so he or she would be of limited help in any event. These difficulties were addressed and the At Risk Register made available to the Police control room.⁵⁵ However, DCI Alison Fossey said the communication between the Police and Children's Services out-of-hours team continues to be a matter of concern. The situation had improved but formal guidelines should be in place.

10.60 We accept that the introduction of the MASH has improved information sharing. We endorse DCI Alison Fossey's view that formal guidance would improve out-of-hours communication between the Police and Children's Services.

10.61 Alison Fossey became the SOJP's representative on the JCPC in 2006:

"The people involved were very committed but all had day jobs and were in many ways trying to do JCPC work from the side of the desk ... there was very little political leadership or interest in children's issues ... Unlike the UK Local Safeguarding Boards (as they are now known) pursuant to the Children's Act 2004, the JCPC was a non-statutory body. Roles, function and accountability of the JCPC and its partner agencies were not defined and this diminished its effectiveness."⁵⁶

10.62 In her oral evidence she added:

"It (the JCPC) just didn't ever appear to be high on the States' agenda ... In the UK there was a very strong move towards Every Child Matters ... and in Jersey it just didn't seem to particularly feature on the political agenda."⁵⁷

⁵⁴ Day 11 7/71

⁵⁵ Day 11 7/72

⁵⁶ WS00687/21

⁵⁷ Day 18/2

The relationship between the States of Jersey Police and politicians

10.63 John Pearson, formerly head of CID, told the Inquiry that there were occasional meetings between the SOJP and States members. The Chief Officer had a monthly briefing meeting with the Minister for Home Affairs. If any particular issue might have an impact on the community or funding implications then appropriate politicians would be briefed and invited to speak.

10.64 He said that Senator Wendy Kinnard, the Minister for Home Affairs, was *“interested in what we were doing, but did not interfere operationally with the States of Jersey Police. All operational decisions remained within the States of Jersey Police as Mr Power was very clear that operational matters were no concerns of politicians”*.⁵⁸ He added:

*“That said there were attempts by others outside of the States of Jersey Police to involve themselves in the work that we did which I would say, did border on interference at times. The political atmosphere in Jersey was completely different to anything else that I have ever experienced. Politicians in Jersey appeared to think they can influence Police operational matters ... although, as far as I was aware, they did not succeed in doing so.”*⁵⁹

10.65 Lenny Harper gave the following evidence:

*“it was never a situation that I faced before ... I never had any problems in Strathclyde even with extreme left-wing politicians, because they never attempted to interfere in areas of day-to-day policing ... In Jersey it was totally different. They were trying to run what we were doing on a daily basis.”*⁶⁰

SOJP knowledge of and response to allegations of abuse of children in care

10.66 Although our Terms of Reference cover a substantial time period, in practice we have had to concentrate on events from the late 1980s onwards. A convenient and practical starting point is 1989, the year in which the CPT was established. The Inquiry has been able to take evidence from officers and former officers, each of whom worked in that team for a number of years, and who gained a real insight into child protection work. Because of the extent of their work in this field, and the fact that their experiences are relatively recent,

⁵⁸ Day 117/67

⁵⁹ WS000685/15

⁶⁰ Day 121/20

these witnesses have been able to provide extensive evidence of the Police response to allegations of abuse over the last quarter of a century.

10.67 Barry Faudemer told the Inquiry that he believed that attitudes have changed over time. In the 1980s the attitude to children in care was that these were problem children who needed discipline. As awareness grew through the 1990s of the damage that abuse could do the Police came to realise that these children were often very damaged individuals. He said that attitudes started to change before he took over as the DS of the FPT in 1994. Officers realised that, while some children at Les Chênes were very challenging, their home lives could explain their behaviour. The Police were alerted to the possibility of abuse both at home and in children's homes. Disclosure by children of abuse within both environments became "*quite commonplace*".⁶¹ From some of the evidence we received, we are not sure that these attitudes had permeated throughout the FPT, at least by the late 1990s and early 2000s.

10.68 On 2 July 2003, Brian Carter drafted a report concerning allegations of abuse of three Les Chênes residents by members of staff. One boy, WN630, alleged that a staff member, WN654, had sought to restrain him by grabbing him by the testicles.⁶² At page 11 of that report, Brian Carter noted:

"It would be fair to say that teenagers today are far more aware of their rights however that is not to say they know their responsibilities, this in turn is making the management of these children in care far more difficult today."

10.69 He explained in oral evidence that he thought that children were prepared to push the boundaries, without accepting the consequences of their actions. When asked what those consequences might include, he said that he thought the use of reasonable force was "*quite acceptable*" on the part of a staff member who suspected that he might be injured by a resident.⁶³ He said that there was a risk of residents making malicious complaints:

"It is fair to say that probably when you have got a group of young boys together who have been violent and committing crimes, they are more

⁶¹ Day 113/37

⁶² WD005740

⁶³ Day 103/24–25

*difficult to control because they work as a team, they feed off each other ...*⁶⁴

but denied that he assumed that complaints were malicious. He said that “*you are very independent when you go to these cases*”.⁶⁵

10.70 We address the investigation into the allegations of assault in more detail below. For present purposes, it is enough to record our view that, as late as 2003, at least one FPT officer was sceptical about the truthfulness of complaints by children in care. Having said that, we should note that:

- Brian Carter was an officer with a genuine wish to investigate allegations of abuse. He was one of the officers who pressed for the allegations of past abuse at Haut de la Garenne (HDLG) (discussed below) to be investigated;
- a much more senior officer, Robert Bonney, recorded at the time his disagreement with the ultimate decision not to prosecute the alleged assailant of WN630; and
- we accept Brian Carter’s view that, despite his instinctive scepticism, he would approach Police enquiries with an open mind.

10.71 Peter Hewlett joined the SOJP as a young officer in 1985, and came into contact with former residents of HDLG who were living in a halfway house and had drug or alcohol problems. Some hinted that sexual abuse by male staff had taken place but their claims were not specific and were dismissed by the Police.⁶⁶

10.72 DC Emma Coxshall (FPT, 1997–2006) said that she was not aware of any attempt to cover up or avoid investigating child abuse. She had had no suspicion during her time on the FPT that there was any form of sexual abuse in children’s homes in Jersey.⁶⁷

10.73 A number of cases of alleged abuse were reported to the SOJP in the years leading up to 2006 (the year in which the wheels were set in motion for the commencement of Operation Rectangle). The response to those allegations,

⁶⁴ Day 103/32–33

⁶⁵ Day 103/34/7–8

⁶⁶ Day 104/103

⁶⁷ WS000639/19, paragraph 83; Day 103/166–7

and to two which were considered as part of Operation Rectangle, is summarised below.

Case of WN766

10.74 WN766 was a CCO. In April 1998 (before the creation of the CPT), the SOJP received a complaint that he had sexually assaulted a six-year-old girl while visiting the girl's mother at home. DC Laisney, who went on to be a founder member of the CPT, accompanied DS Ellis to interview the mother and child. The child maintained that WN766 had put his hand up her skirt and touched her over her pants. WN766 denied that any assault had taken place. Over the course of a number of interviews, the child's account changed. She alleged that her brother had witnessed the assault; he, when interviewed, initially claimed that he had but then said that he had not. Eventually, the girl said that her report of assault was untrue. In a careful report, DS Ellis stated that he could not rely on the child's latest account as being true. He set out in detail the factors making an assault likely and unlikely, and concluded that no assault had taken place. There was no prosecution and, as far as we can tell from the limited papers, no legal advice was sought.⁶⁸

10.75 We have insufficient evidence to determine whether the SOJP investigation was adequate. The picture changed when the complainant, after maintaining her account throughout three Police interviews, to her mother, teacher and headmaster, suddenly changed it. This is a not uncommon feature of investigative child protection work with young children. We note the obvious fairness and thoroughness of DS Ellis in his consideration of the competing elements in the case.

Case of Les Hughes

10.76 Les Hughes was a Housefather at the FGH Clos des Sables. DI Robert Bonney told us that, in 1989, during a Police investigation into allegations of abuse on the part of Les Hughes at the Home, agreement was reached with Children's Services that a representative of Children's Service, Brenda Chappell, would attend the Home shortly before the Police arrived to arrest

⁶⁸ WD006827/68-71

him. The intention was that she would arrive a few minutes before the Police. In the event she went to see him hours before the arrest (or even the previous day).

10.77 DI Robert Bonney said that he was irritated that Les Hughes had been “*tipped off*” in this way and given the chance to conceal evidence. In addition, he was “*apoplectic*” to discover that a CCO with Children’s Services (known to the Inquiry as WN283) had known for some years of allegations made of abuse by Les Hughes and had not passed them on to the Police.⁶⁹ In fact, WN283 had not reported the allegations to Children’s Services managers.⁷⁰

10.78 Children’s Services were, said Robert Bonney, generally supportive of Police investigations. However, this was an example of a case where there was a failure to report promptly to the SOJP. We find that the response of the SOJP, when the abuse was reported to them, was appropriate. The Police pursued a prosecution which led to Les Hughes pleading guilty to three sexual offences against children. We address this prosecution further in Chapter 11.

Case of WN335

10.79 WN16 was a resident at Heathfield from 1986 or 1987 to 1989. He alleged that a member of staff, WN335, had committed repeated and serious sexual assaults on him over a period of two years at Heathfield and, after WN216 had left Heathfield in January 1989, at WN216’s own flat. WN216 alleged that the assaults had continued for a further two years. He eventually reported them in early 1991.

10.80 We have seen two reports by DS Adamson in this case. The first report indicates that he interviewed WN335, who denied the allegations and put forward a number of reasons for which WN216 might be making malicious claims against him. The Police also interviewed other members of staff at Heathfield, who provided no corroborative evidence to support a prosecution.

⁶⁹ Day 114/152; WS000655/7; WD008662/2

⁷⁰ WD008662/2

The Police attempted to obtain DNA samples from bed linen, but no matches could be obtained.⁷¹

10.81 In a subsequent report, made in August 1991, DS Adamson wrote that he thought that WN216 would be a reluctant witness. We do not know why he came to that view, particularly since WN216 had provided a second witness statement just three days earlier.⁷²

10.82 When considering the decision not to prosecute in this case, Nicholas Griffin QC asked why the Police had not sought to interview other residents at Heathfield. He reached no conclusion, considering the issue to be outside his remit. The Inquiry has seen no evidence which would enable us to answer that question. It is possible that Police were sceptical about the prospect of relying on child witnesses whose troubled pasts could make them seem, in the eyes of a court, unreliable witnesses. We have certainly received evidence of attitudes of this sort that persisted in the Police for a decade or more after this time. However, we did not hear from DS Adamson and it would be wrong for us to speculate, either on this issue or on the question of WN216's putative unwillingness to give evidence. We do note that DS Adamson does seem to have made significant efforts to obtain corroboration; he also referred the file to the Force Legal Adviser, who endorsed DS Adamson's view that the case should not proceed. We do not criticise the Police approach to this investigation.

10.83 The case was investigated again in 2008, as part of Operation Rectangle. This time, officers did speak to former residents of Heathfield and obtained, both from former residents and from staff, evidence that potentially corroborated WN216's accounts. However, by this time, WN216 no longer wished to pursue a complaint. He felt that he had not been believed in the past and there was no reason for him to think that he would be believed now. In a report made in June 2009, DS Smith concluded that WN216 did not wish

⁷¹ WD004681/183

⁷² WD004573

to give evidence, noted that there was no forensic evidence and advised that the Police should take no further action. DI Fossey concurred with that view.⁷³

10.84 As Nick Griffin noted, DS Smith's analysis took no account of the corroborative evidence obtained by the Operation Rectangle team. However, the reality was that, with WN216 unwilling to co-operate, and the corroborative material being insufficient to substantiate a case without him, there was little that the Police could do. We believe that the Operation Rectangle investigation was a thorough one, and we do not believe that the error in DS Smith's report altered the conclusion that the Police were bound to reach.

Case of WN857

10.85 In July 1991, a 13-year-old girl in foster care alleged that she had been indecently assaulted by her foster father WN857. She had been in the care of WN857 and his wife for three months. She was removed and placed at La Preference at the request of the foster mother. An undated record notes that the foster parents threatened to send her back to her real father if the Children's Office did not remove her and "*needless to say these foster parents have been wiped off the slate*".⁷⁴

10.86 The child eventually disclosed the allegations of indecent assault to Marnie Baudains. This led to a Police investigation and disclosure of digital penetration on five occasions during her three months in foster care.⁷⁵ An examination conducted by a Police surgeon confirmed injuries consistent with her allegations.⁷⁶ The child said that she did not say anything because she was scared and "*did not know how to tell anyone as she did not think they would believe her*".

10.87 The foster father WN857 was interviewed by the SOJP on the same day. He denied the allegations and said that it was an emergency placement with them, the child having been beaten by her father.⁷⁷ His wife was also interviewed and said that she had never seen any acts of indecency. There

⁷³ WD008989/184, WD004572

⁷⁴ WD008598

⁷⁵ WD006607

⁷⁶ WD006608

⁷⁷ WD006609

were limited occasions on which her husband was left alone with the child. She also identified another possible perpetrator.

10.88 DS Adamson advised that while there was medical evidence to substantiate the allegations it was not conclusive of the guilt of WN857. She noted that unless there were further corroborative evidence it would be unsafe to proceed with the prosecution. She requested that a copy of the report be forwarded to the Police Legal Adviser, Ian Christmas, for his consideration.⁷⁸

10.89 We find that the response of the SOJP to the disclosure of alleged abuse was appropriate. The child complainant was interviewed by the Police in the presence of Marnie Baudains, and the interview was recorded on video. The Police obtained a medical opinion from a child abuse expert and senior Police surgeon from Thames Valley Police. Her conclusion was that the child had suffered injuries as a result of penetrating trauma. However, proof of the identity of the perpetrator, when there were two candidates, was clearly going to be difficult to establish. We believe that the investigating officer took the right course in identifying his doubts but nevertheless seeking a legal opinion from Ian Christmas.

Case of WN858 and WN859

10.90 In June 1994, the mother of a two-year-old child in foster care alleged that the child had suffered physical abuse at the hands of the foster parents, WN858 and WN859. The allegations were reported to the SOJP on 12 June 1994. The duty CCO, David Dallain, visited the Home and had concerns about the origin of the bruises, but advised that the child be returned to the foster parents. No update was provided to the Police at that stage.

10.91 The allegations were initially investigated solely by Children's Services. After Mr Dallain's visit on 13 June 1994, arrangements were made for a medical examination of the two-year-old. The Police, at this stage, were informed that Children's Services were conducting an "in-house" investigation in what was probably a malicious complaint. The SOJP asked to be informed if there were any concerns about non-accidental injuries.

⁷⁸ WD006607/4

- 10.92 Dr Clifford Spratt examined the child in the presence of one of the alleged perpetrators, WN859. He concluded that the bruising indicated “*fairly heavy beatings*”. WN859 requested a second opinion, and this was arranged by Children’s Services. The Police were then notified on 14 June 1994 and DC Shearer attended the second medical examination. Dr Holmes’s opinion was that there was insufficient evidence to justify the conclusion that the bruising was non-accidental. On 16 June 1994, a Police investigation commenced at the request of Children’s Services.⁷⁹
- 10.93 In her first interview with the SOJP, WN859 said that she did not know how the injuries were caused but gave possible explanations, including the child’s disability and propensity to injure himself. She admitted occasionally smacking him for misbehaviour but stressed it was never hard enough to cause injury.⁸⁰ WN858 provided similar explanations when interviewed.
- 10.94 The child’s mother told the Police that she had suspicions over some months about a series of injuries, some of which were reported to Children’s Services.⁸¹ Her concerns are recorded by Children’s Services in February 1994 and in April 1994, leading to a visit by the CCO. In May 1994 it is noted that concerns were dispelled because the bond between WN859 and the child was “*excellent*.”⁸²
- 10.95 Photographs taken by the child’s family were provided to both doctors. They concluded that injuries to the buttocks were the result of “*a heavy blow from open adult hand*”. WN858 and WN859 were interviewed again on 12 July 1994 and maintained their denials.
- 10.96 On 18 July 1994, one month after the allegations were first made, a Child Protection Case Conference was held. Anton Skinner, Children’s Officer, chaired the conference which was attended by two SCCOs, three CCOs and two Police officers.⁸³ The following information was recorded:

⁷⁹ WD005965

⁸⁰ WD006622

⁸¹ WD005965

⁸² WD009399/418

⁸³ WD008983

- i. Two CCOs visited the foster home to investigate the bruising. The child was not stripped during their visits. Sue Richardson (CCO) noted that the child had developed well and although she was concerned about bruising she felt that this was due to him falling a lot and *“rough play with the other children”*. Sarah Brace (CCO) spoke to WN858 and WN859 about physical punishment not being an appropriate form of discipline. She felt that the foster parents provided *“excellent care throughout his stay with them.”*
- ii. The Health Visitor said that the foster parents believed in old methods of discipline and WN859 *“must have been under considerable strain”* caring for all of the children.
- iii. Anton Skinner said:
 - a. The foster parents had in general *“provided excellent care”*.
 - b. Corporal punishment of a foster child is not acceptable and this should be made clear.
 - c. The injuries reflected a loss of temper or control rather than physical chastisement – this was a *“fairly sustained attack”*.
- iv. Medical evidence established that the injury happened while the child was in the care of the foster parents. It was reasonable to conclude that the child’s *“fairly sustained non-accidental injuries are likely to have been sustained as a result of a loss of temper”* by WN859.
- v. The child and another foster child were removed from the Foster parents early in the investigation. The child’s name was not placed on the Child Protection Register as he was no longer considered to be at risk of abuse. The foster parents’ own children were not placed on the register in the absence of any evidence to suggest they had been subject to abuse.

10.97 The following recommendations were made:

- No prosecution – WN858 and WN859 provided the child with *“excellent care”* and their choice of punishment was *“unwise, rather than cruel or aimed at deliberately inflicting injury”*.

- Anton Skinner to inform the foster parents that their registration would be withdrawn. Further discussion to take place about appropriate forms of discipline and support to be provided by the Child and Family Unit.

10.98 Anton Skinner was asked to provide a supplementary statement to the Inquiry about this investigation. He said that he had no recollection of the case but gave an account based upon the documentation provided and his general experience.⁸⁴ He made the following points:

- The purpose of a Child Protection Conference was to ensure measures were in place to protect the child and assist the child and family as appropriate. He agreed with the measures set out in the 1991 Child Protection Guidelines.⁸⁵
- It was not a standard function of a Child Protection Conference to make a recommendation relating to prosecution. In this case he did not think the recommendation would have influenced the Police Legal Adviser's decision about whether to prosecute.⁸⁶
- They had no specific guidance about factors to take into account when making a recommendation as to prosecution. The Department's reputation was not a consideration. There was no political or other pressure from anyone else. WN858 and WN859 were foster parents but were not employed by the Children's Service.
- Sue Richardson made a reasonable assessment of the cause of the child's bruising, taking into account his propensity to fall over. Sarah Brace's conclusion that "*despite this incident*" the child had been provided with "*excellent care*" should have been phrased "*with the exception of this incident*" as whatever led to the loss of control it could not equate to "*excellent care*".
- Anton Skinner's recorded use of the phrase "*fairly sustained attack*" was "*an imprecise use of wording on my behalf and does not accurately represent the evidence*".

⁸⁴ WS000734/38

⁸⁵ WD009137/11

⁸⁶ WD005965/8

- The key difference, compared with the approach taken to the allegations about the Maguires in 1990, was that the wellbeing and safeguarding of the children remained the priority.
- From Anton Skinner's reading of the Case Conference minutes, it was "*clearly the view*" that WN858 and WN859's children were not at risk, particularly once the strain of caring for the foster children had been removed.
- The interests of WN858 and WN859, the alleged perpetrators, were factored into the recommendation regarding prosecution. Whatever their shortcomings, they had sought to provide a caring environment for the foster children. Prosecution would have impacted on their ability to care for their own children.
- The interests of the mother of the two-year-old child were not taken into consideration.

10.99 In the light of the Case Conference recommendations, the SOJP report concluded:⁸⁷

- On occasions, WN859 found it difficult to cope: it is "*probable that she may have been responsible for other injuries however this cannot be substantiated*".
- The investigating officer concurs with the recommendation of the Case Conference "and is of the opinion that there is insufficient evidence to prefer charges against either [WN858 or WN859]."
- The mother of the child said she would consider civil proceedings and due to the sensitivity of the case it was forwarded to the legal adviser for consideration.
- The investigation highlighted the importance of "*immediate and full liaison between the Children's Service and the Police*", which, it is said, "*would have made the Inquiry considerably shorter, easier and perhaps even resulted in a more positive outcome*".
- Anton Skinner expressed his intention to conduct an internal review.

⁸⁷ WD005965/8

10.100 In his supplemental statement, Anton Skinner said that he did not know whether civil proceedings were instigated. He did not understand Police concerns about delays in liaison and thought that there were delays in the Police investigation. He had no recollection of carrying out an “internal review” but exhibited a “debriefing session” agenda that included lessons to be learned for the future.⁸⁸

10.101 Our interest in this case is the extent to which the child protection guidelines and best practice in child protection work were followed. We recognise the SOJP were initially constrained by the limited information provided by Children’s Services. The emphasis on the possibility of a malicious allegation by Children’s Services was unhelpful and poor social work practice. The possibility of unfounded or malicious allegations should always be a consideration but should not prevent thorough investigation and review of the evidence. Once the SOJP investigation commenced, the weight of medical evidence should have been a primary consideration in determining whether to prefer charges. We might query the correctness of the view that there was insufficient evidence to prefer charges, but recognise that it is an issue on which different opinions could reasonably be held.

Case of WN860 and WN861

10.102 On 23 September 1994, a 19-month-old girl in foster care was taken to hospital by her foster mother WN861. She had injuries to the left side of her face. Dr Clifford Spratt found two large bruises which he deemed to be non-accidental and the SOJP and Children’s Services were notified. A photograph was taken of the injuries.

10.103 WN860 and WN861 were interviewed by the SOJP on 24 September 1994. The foster father WN860 said he returned home from a run and found the child crying in her cot; later that evening he noticed a red mark around her eye. He had no idea how the bruising was caused. WN861 provided similar evidence to her husband and added that the foster child climbed onto a rocking horse and her own child helped her down by pulling her leg. She also said that the child bruised easily. They had had the foster child for about

⁸⁸ WD009399/424, 426

six months and “*She’s done nothing to get a smack or a telling off, no nothing*”.

10.104 A member of the CPT allocated the case to Jean Andrews, who produced a report on or about 29 September. WN861 told her that when she heard the foster child crying, she went into the room and her own son was in the room with the foster child. Jean Andrews reported that the photograph of the injury was shown to Dr Holmes, a Police surgeon. He concluded non-accidental injury and considered it unlikely that an adult inflicted the injury. He thought it possible that a flexible object was the cause and agreed with Jean Andrews when she suggested that the likeliest explanation was a soft flexible toy with some hard parts. Later in the day, Jean Andrews showed him a doll and he confirmed it was the most likely object to have caused the injury.⁸⁹ Dr Clifford Spratt agreed that the injuries could have been caused by the foster parents’ son.⁹⁰ Jean Andrews concluded that the injury appeared consistent with several blows from the doll.

10.105 DS David Morgan’s report, dated 20 October 1994,⁹¹ also concluded that the injury was probably caused by the foster parents’ son and that therefore there was no evidence to show a crime had been committed.

10.106 The approach of Children’s Services and the SOJP in this case of non-accidental injury is different from that taken with WN859 and WN858. There was in this case no detailed investigation and no Child Protection Conference to ensure that measures were in place to protect the child. However, given the advice that the injuries were likely to have been caused accidentally by the foster parents’ son, we conclude that the response of the Police was reasonable.

Case of WN862

10.107 Numerous allegations were made from at least 1995 onwards that WN862, a registered foster parent, had sexually abused WN974, his foster daughter. WN974 and her siblings were fostered by WN862 and his wife. It was also

⁸⁹ WD006403

⁹⁰ WD006615

⁹¹ WD006614

alleged that WN862 continued to have a sexual relationship with WN974 as an adult and that he had access to her children.

- 10.108 In due course WN974's children sued the Minister for HSS for negligence, alleging that the Department failed to remove the children from a situation in which they were exposed to harm that would have been avoided had they been taken into care. Expert reports were prepared on each side.⁹² The reports were disclosed to the Inquiry on application by the Inquiry to Commissioner Scriven who heard the case.
- 10.109 The litigation covered the period 1991–2000. Maria Ruegger was the expert instructed on behalf of the Plaintiffs and Stephen Pizzey the expert instructed on behalf of the defendant department.
- 10.110 Both experts agreed that the HSSD had failed properly to assess whether WN862 posed a risk to WN974's children. We concur with this view.
- 10.111 A summary of the chronology of disclosure begins in 1995. In October 1995, the maternal grandfather repeated an earlier allegation the WN974 had disclosed to him that her foster father WN862 had sexually abused her.
- 10.112 The CCO reporting on this allegation noted that the matter had been investigated previously and that WN974 had denied that WN862 had sexually abused her. The CCO noted that there were positive reports about WN862 and his wife during their 20 years as foster parents. She concluded that there were no grounds for Children's Services to investigate further.⁹³
- 10.113 In late 1997 or early 1998, WN974 told her Family Support Worker that she had been sexually abused 10 years earlier. She did not identify the perpetrator and said that although she and her children continued to see him she had no concerns for her children.⁹⁴
- 10.114 In May 1998, a Case Conference was held.⁹⁵ The notes recorded that allegations had been raised in a March 1998 memo that WN862 continued to have sexual relations with an individual who had been his foster child. The

⁹² WD008973 to WD008982

⁹³ WD008979/31

⁹⁴ WD008979/32

⁹⁵ WD006606

individual concerned lived in a facility managed by the States of Jersey. The Manager of the facility said that, since the concern had come to his attention, staff had recorded daily visits to WN974 by WN862.

10.115 The Case Conference made the following recommendations:

- The SOJP obtain further information by following WN862 when he visited WN974. Also WN974 to be spoken to again by the Police.
- WN862 to be invited to the Children's Office to discuss the concerns with a senior member of the Service.
- WN862's movements at the facility to be monitored and a PNC check in England to be undertaken.

10.116 In a SOJP report summary completed by DC Emma Coxshall⁹⁶ she noted that Police observations had not identified any inappropriate behaviour during WN862's visits. WN974's sister had provided a witness statement the previous year. This stated that WN974 had disclosed to her that WN862 had abused her from the age of 12. The Police finally spoke to WN974 who was concerned that if she confirmed her sister's account that would mean that those of her siblings still in the care of WN862 would be removed. She said that she wanted to put her past behind her and not talk about it. DC Emma Coxshall stated that there would be no further Police investigation, given her wish not to make a complaint. The file was to be forwarded to Children's Services as WN862 was still a foster parent.

10.117 Children's Services' reports from 1999 included WN974's allegations against WN862 and noted that she continued to leave her children in his care on the basis of her belief that they were too young to be at risk. A subsequent version of the report was filed with the court with the reference to WN862 removed. Maria Ruegger (the Plaintiff's expert) considered the removal of this reference to WN862 "*to be indicative of an active intention to withhold from the court relevant information pertaining to the safety of WN974's children*". Furthermore, she said that no proper assessment of WN862 had

⁹⁶ WD006604

taken place and he was having unsupervised contact with one of the children of WN974.

10.118 In February 2000, WN974 repeated her allegations and, in October 2000, reported that WN862 still asked her for sex.⁹⁷

10.119 In 2001, Tony Le Sueur of Children's Services expressed criticism of previous investigations. He recorded his decision not to place any other children with WN862 and his wife and stated that, once the children in their care came of age in January 2003, they would be deregistered as foster parents.⁹⁸

10.120 In November 2005, a strategy meeting was held, apparently after a further disclosure from WN974. It was claimed during the meeting that, despite concern raised in 2000 about WN862, the matter had never been investigated by Children's Services. It was agreed therefore that there should be an investigation by the SOJP's FPT.

10.121 At a Case Conference on 27 February 2006 in respect of her children, WN974 again repeated the allegation against WN862 but refused to cooperate with the SOJP.⁹⁹

10.122 On 8 March 2006, the Police Legal Adviser, Bridget Shaw, sent a memo to the Solicitor General. She raised the question as to whether the SOJP could begin an investigation without a formal complaint in view of the way the recent disclosures had been made. She also queried whether an enquiry should be commenced into the children fostered in the past by WN862 and his wife. It was noted that the SOJP recognised an urgent child protection issue regarding WN974's children and those in WN862's care. The memo noted: "*Children's Services have no plans to take care proceedings in respect of [WN974]'s children.*"¹⁰⁰

⁹⁷ WD008979/32

⁹⁸ WD008979/31

⁹⁹ WD008647

¹⁰⁰ WD008646

- 10.123 On 27 April 2006, the Solicitor General advised¹⁰¹ that without a complaint from WN974 there was virtually nothing against WN862 that could form the basis of any court proceedings, whether criminal or protective under the *Children (Jersey) Law 2002*. The situation could be reviewed if there were further developments.
- 10.124 This advice was confirmed by Bridget Shaw in an email to DS Alison Fossey on 2 May 2006.¹⁰² It was suggested that further approaches be made to WN974. Bridget Shaw also advised that an investigation be commenced to determine whether any former foster child had a complaint to make against WN862. She stated that this would not be an enquiry into the past workings of the Children's Service "*at this stage*".
- 10.125 WN974 again refused to co-operate. After a trawl of Social Services records, seven children fostered on a long-term basis by WN862 and his wife were identified. Five were contacted and none disclosed any abuse. DS Fossey noted that there would be no further Police involvement but that Children's Services would continue to work with WN862 and WN974's family.¹⁰³
- 10.126 Officers made reasonable efforts to obtain the co-operation of WN974 and to identify other potential witnesses among former foster children. In the absence of any admissible evidence, there was little more that the Police could do by way of investigation or steps to prosecute. Given that SOJP recognised the present risk to WN974's children and to any other foster children in the care of WN862 and were aware that Children's Services planned to take no action, representations of SOJP's concerns could and should have been made at senior management level between the two agencies.
- 10.127 We address the response of Children's Services in more detail in Chapter 9. We consider the response of Children's Services to have fallen far short of acceptable professional standards of child protection practice. WN862 remained a registered foster parent and WN974's children were left in his

¹⁰¹ WD008642

¹⁰² WD008645

¹⁰³ WD008647

care. The evidence indicated that he had unsupervised access to one of these children.

Case of WN874

10.128 In 1998, WN875 alleged she had been abused in the past by her foster father WN874. WN875 and WN876 were originally placed in May 1978 with WN874 and his wife in a private arrangement. WN874 and his wife then applied to become registered foster parents and were vetted by Children's Services. The two children (then 11 and 12 years of age) were formally received into care in March 1979.¹⁰⁴

10.129 Following the allegation made in 1998 there was correspondence between the SOJP Chief Officer, the Attorney General and the Home Office.¹⁰⁵ The following was noted:

- WN875 and WN876's father committed suicide in 1991. He left a note that alleged that WN874 had abused his daughter, WN875, before she reached the age of 14.
- Anecdotal and uncorroborated information about WN874 did not provide sufficient evidence for an investigation.
- WN874 had received offensive telephone calls from WN876 over a lengthy period of time.
- WN876 telephoned the SOJP and said that she had become pregnant by WN874 on three or four occasions and that those pregnancies were terminated.
- In September 1998, WN876 sent a letter to Senator Shenton about the allegations and the FPT was directed to make enquiries.
- In November 1998 and January 1999, statements were taken by the Police from WN875. She withdrew her complaint in March 1999.
- In February 1999, the SOJP interviewed WN874 who denied all allegations of physical and sexual abuse. The Inquiry obtained the transcripts of WN874's Police interviews. He admitted that he had a sexual relationship with WN875 and "*possibly got her pregnant*". He stated that this happened

¹⁰⁴ WD006811

¹⁰⁵ WD007420; WD007973; WD007420

when she was over 16 years of age. He also admitted paying her the sum of £38,000 over a number of years.¹⁰⁶

- The SOJP's Chief Officer Le Breton concluded that the matter could not be put before a court. The historical and uncorroborated nature of the allegations and the character of the complainants made prosecution unlikely in his view.

10.130 A record of WN875's and WN876's contact with the Police up to 2003 was provided to the Inquiry. A SOJP report in November 2008 noted that despite the admissions detailed above no further action was to be taken as WN875's sister refused to deal with the Police and the complaint was subsequently withdrawn.

10.131 We recognise that, once WN875 had withdrawn her complaint, and in the absence of any corroborating evidence, a prosecution was unlikely to succeed. We do query whether further inquiries could have been made following WN874's admission that he had had a sexual relationship and possibly got her pregnant. Any information about the termination of pregnancy might have led to proof of WN875's age at the time. However, we acknowledge that even such proof would not establish that WN874 was the father. Again, we conclude that the Police response was reasonable.

Case of WN761

10.132 Barry Faudemer gave evidence about the case in 2001 of a Les Chênes resident, WN761, a young man with a history of violence who was charged with assaulting staff. WN761 alleged that he had been assaulted by staff; a member of staff admitted squeezing WN761's throat. However the Police and Ian Christmas, the Force Legal Adviser, took the view that contact occurred during an altercation when staff were trying to move WN761 to the secure area. The Police concluded that the restraint had not been conducted well by untrained staff and that there were institutional issues that needed to be resolved. There was no prosecution but the incident report prompted

¹⁰⁶ WD007975; WD006846

Barry Faudemer to go to the Director of Education and this led to the commissioning of the Dr Kathie Bull Report.¹⁰⁷

10.133 Brian Carter recalled dealing with allegations, by residents at Les Chênes, of physical abuse by staff. He did not recall any prosecutions brought as a result of those complaints.¹⁰⁸

10.134 We regard the Police response and, in particular, the action of Barry Faudemer in making a report to the Director of Education, as appropriate and conscientious. Prosecution was clearly not likely to succeed. However, further scrutiny of methods of restraint was undoubtedly needed.

Case of WN812 and WN813: family allegations

10.135 On 18 August 2002, allegations of buggery and indecent assault were made by foster children against WN884, the 18-year-old son of the foster parents WN812 and WN813. Documents produced by Children's Services provide a timeline of the action taken following the disclosure:¹⁰⁹

- The disclosure was made to their mother, who notified the out-of-hours duty officer of the same. David Castledine visited the following day and, on 20 August 2002, ABE¹¹⁰ interviews were conducted with the children. The children's CCOs were present during the interviews.
- On 21 August 2002, a strategy meeting was held involving senior managers from Children's Services and DS Shearer from the SOJP's FPT. Action agreed included the arrest of the suspect. The foster parents to be suspended pending the outcome of the enquiry.
- On 31 August 2002, WN884 was arrested. An investigation was initiated by Children's Services into the files of all children fostered by WN812 and WN813. Alternative placements were found for those in their care at the time.
- WN890, having been fostered by WN812 and WN813, was adopted by them in June 2002. On 16 September 2002, a CCO report recommended

¹⁰⁷ Day 113/71

¹⁰⁸ WS000647/4 and 16

¹⁰⁹ WD008746

¹¹⁰ Achieving Best Evidence

that he remain in the family home and that he need not be placed on the Child Protection Register.

10.136 In April 2003, Tony Le Sueur recommended, subject to consideration by an independent fostering panel, that WN812 and WN813's registration should not be activated as WN884 was an unacceptable risk.

19.137 A Police report¹¹¹ recorded the following:

- The foster parents were seen as a *"tremendous asset for the Children's Service"*.
- The mother of two of the foster children claimed that she had told David Castledine, about 12 months previously, that the suspect had pulled down her daughter's pants.
- The foster parents provided information suggesting that the complainants were less than credible witnesses.
- Some witness statements that suggested that Children's Services had knowledge of specific incidents.
- David Castledine provided an assessment of the child witnesses in respect of their capability and credibility and the potential effect upon them of giving evidence. David Castledine recommended that neither of the two children for whom he was the CCO should be asked to give evidence.
- *"The Children's Service would like a definite result, i.e. proof of innocence or proof of guilty. Without this they are unlikely to be unable to allow (the foster parents) to resume fostering."*

10.138 DS Robert Bonney noted, on review of the file *"notwithstanding that a conviction may well be achievable and entirely in the public interest I have serious reservations over the wisdom of launching a prosecution"*. He concluded that it would not be wise to bring charges given that conviction was not a foregone conclusion and mindful of the views of David Castledine as to the detrimental effect on the child witnesses. The file was passed to Police Legal Adviser Bridget Shaw *"in light of the size and circumstances of*

¹¹¹ WD005966

the enquiry, particularly the fostering element aligned with the Children's Service".

- 10.139 In March 2003, WN884 was notified that he would not be prosecuted. The LOD did not believe that a prosecution was in the children's best interests.¹¹² This was despite the fact that the investigating team believed the children's accounts.
- 10.140 David Castledine told the Inquiry that he recommended that the child witnesses not give evidence because of the potential psychological impact upon them being cross-examined by a defence lawyer. When asked upon what expertise his assessment of the children was based he stated he was aware of the serious effect of cross examination. He thought it wrong "*to put them through that*". He confirmed that he was not fully aware of the protection afforded to child witnesses as at 2003.
- 10.141 In 2010, WN890, the adopted son of WN812 and WN813, disclosed that he had been sexually abused since the age of 13 by WN747. WN747 had lived with the family for two years as a lodger and was the ex-boyfriend of the daughter of WN812 and WN813.
- 10.142 In 2011, WN747 was convicted of 12 counts of sexual offences against WN890 and others. He was sentenced to five years' imprisonment and two years consecutive for indecent image offences; a total of seven years' imprisonment.
- 10.143 After WN747's conviction WN812 was charged with and pleaded guilty to one count of perverting the course of justice. She "*tipped off*" WN747 about the investigation and allowed him to destroy evidence on his computer. She also pleaded guilty to perjury in respect of the false evidence she gave during the trial of WN747. In December 2012, WN812 was sentenced to a total of 15 months' imprisonment.¹¹³
- 10.144 We find that the Police response was appropriate. The allegations were investigated promptly, the Police liaised closely with Children's Services and

¹¹² WD008746/28

¹¹³ WD006229/15

obtained legal advice. The decision not to prosecute was taken by the Law Officers.

10.145 We set out in Chapter 9 our view of the response of Children's Services

Allegations by WN630 and others

10.146 On 2 July 2003, Brian Carter drafted a report concerning allegations, made by residents at Les Chênes, of abuse by staff. In evidence, he said he considered that the use of reasonable force was "*quite acceptable*" on the part of a member of staff who suspected that he might be injured by a resident. He said that there was a risk of residents making malicious complaints. He denied that he assumed that any complaints made were malicious.¹¹⁴ We have set out above further details of his report, and of his evidence to us about his views of Les Chênes residents.

10.147 In respect of one allegation of assault, however, Brian Carter concluded that the member of staff, WN654, had used an improper method of restraint (pulling the boy's arms backwards through his legs, so putting pressure on the boy's testicles). Children's Services were told of Police concerns regarding the lack of restraint training. Brian Carter recommended that WN654 should not be prosecuted even though the incident was witnessed by two members of staff as well as other residents. He considered that the offence had "*not been proved beyond reasonable doubt*" and stated that the residents were not ideal witnesses because of their previous convictions. He was also concerned about the fact that the staff members had not initially admitted to having seen the incident but had come forward later.

10.148 The file was sent to the LOD, who advised against prosecuting, noting "*this was a justifiable assault and that only reasonable force was used*".¹¹⁵ DI Robert Bonney disagreed: "*I do not believe that act is justified and to condone that sort of behaviour will be likely in my view to lead to a greater potential for unrest and serious violence.*" WN654 was not prosecuted.

¹¹⁴ Day 103/34

¹¹⁵ WD008662/434

10.149 We believe that Brian Carter's response was wrong. He was, we conclude, too heavily influenced by his perceptions of the character of the residents of Les Chênes. Such influence is clearly a matter for concern. DC Brian Carter also, as Robert Bonney acknowledged in evidence to us, applied the wrong test; it was for the Police to determine whether there was a prima facie case to go to the Law Officers, not to decide whether the case had been proved beyond reasonable doubt. Despite Brian Carter's view (with which his sergeant, DS Beghin, concurred), the file was sent to the LOD. Further, when the advice was not to prosecute, DI Robert Bonney expressed his disagreement in trenchant terms. Ultimately, the decision whether to prosecute was one for the Law Officers, and the Police cannot be criticised for the actions that they took.

Case of WN195

10.150 In 2004, Brian Carter investigated the allegation of WN195 that he had been abused by WN264 while he, WN195, was a child resident at HDLG and WN264 had been a visitor to the Home. WN195 had raised the allegation of abuse in November 2003, while being interviewed under caution for an offence against WN264. However, the allegation does not appear to have been passed onto the FPT or, at least, was not investigated by the team at that stage. It was only after the allegation was made in court, months later, as part of WN195's mitigation, and WN195 was advised to make a formal complaint, that the FPT learned of the alleged abuse.¹¹⁶ Brian Carter said that he believed WN195 and regarded him as a compelling witness; however, his understanding was that corroboration was required for any prosecution to be brought.¹¹⁷ In seeking corroboration, Brian Carter reviewed the HDLG records of around 950 or 960 former residents. He was searching for records of visitors or of children being taken out of the Home on trips.¹¹⁸ While he found evidence that WN264 had visited the Home, the dates did not entirely match those identified by WN195. No other resident made any complaint, save for one who (during the course of Operation Rectangle some time later) made an allegation of an assault of a very minor nature.

¹¹⁶ Day 103/48

¹¹⁷ Day 103/52

¹¹⁸ WS000647/10

When the Law Officers decided not to prosecute, Brian Carter was disappointed but believed that the decision had been made in good faith.¹¹⁹

10.151 Robert Bonney, the DI responsible for the FPT at the time, gave similar evidence about the decision not to proceed. He discussed it at length with Laurence O'Donnell, the Force Legal Adviser, but understood that Laurence O'Donnell believed that the absence of corroborative evidence of anything beyond a propensity to an interest in young boys would lead the case to fail. Robert Bonney had wanted advice to be taken from a senior Crown advocate; the case was then reviewed by the Attorney General, who again concluded that the case could not be prosecuted without further corroboration. Robert Bonney's own view was that WN195 was a credible witness and that a jury should have been allowed to decide the case, with or without a corroboration warning.¹²⁰

10.152 A contemporaneous note, dated September 2004, records that the Attorney General had decided that the case could not "*at present*" be prosecuted without further corroboration.¹²¹ The author of the note, Laurence O'Donnell, wrote:

"I note that there are no other victims identified as a consequence of the Police investigation and thus, at present, the prosecution would proceed with only one victim. The practice locally is for such prosecutions not to be proceeded with and I am of the view that, should the matter be charged, the magistrate would discharge at an old-style committal."

10.153 The note was sent to Brian Carter. He understood the reference to not prosecuting if there was only one victim to be a reference to the need for corroboration.¹²²

10.154 While we have concerns that the original report made in November 2003 was not passed to the FPT, the response of that team once a complaint had been made was entirely proper. DC Brian Carter in particular made great efforts to obtain corroboration, and cannot be criticised for not having succeeded. Again, the matter was referred appropriately for legal advice,

¹¹⁹ Day 103/54–55

¹²⁰ Day 114/176–184

¹²¹ WD007441/4

¹²² Day 103/57

and the ultimate decision not to prosecute was made by lawyers and not Police officers.

10.155 The case was reviewed as part of Operation Rectangle. John Edmonds, Director of the Criminal Division of the LOD, was asked to locate the advice given in 2004. In an email written on 14 July 2009 to the Attorney General, William Bailhache QC, he referred to the advice and said:

“I cannot help feeling that the Legal Advisers over a period of many years have effectively been applying a test of mandatory corroboration rather than properly evaluating whether an uncorroborated victim would nonetheless be regarded as a witness of truth. I fear that Ian Christmas’ involvement both as Legal Adviser and Magistrate set the tone for much of this practice.”¹²³

10.156 In 2010, Crown Advocate Baker nevertheless advised, on the evidence available, that there should be no prosecution.

Case of WN865

10.157 In August 2006, a 14-year-old girl alleged that she had been indecently assaulted by her foster mother’s fiancé, WN865. A SOJP case summary¹²⁴ noted that the girl told the foster mother immediately. The foster mother gave a statement to the Police that WN865 had admitted touching her breasts but denied the other allegations. WN865 was convicted in April 2007 and sentenced to a community service order.¹²⁵

10.158 In May 2007, a report was produced for the Fostering Panel about the continuing placement of the complainant with the foster mother.¹²⁶ The report provided a history of placements including concerns about some of the foster mother’s relationships. It also set out the “current” situation, including the foster mother’s request for her partner to stay at the Home at weekends despite a 2006 conviction for assaulting an eight-year-old child. A list of risk factors and protective factors in maintaining the placement was set out. The recommendation was that the complainant continue to live with the foster mother but for her registration to cease when the child was no longer

¹²³ WD009000/432

¹²⁴ WD006624

¹²⁵ WD006279/1; WD008594/11

¹²⁶ WD008594

in care. Close monitoring was to take place during the placement and restrictions were to apply regarding the involvement of the foster mother's partner.

10.159 We conclude that the Police response appears to have been prompt and led to the conviction of WN865. From the evidence available to us, the Police handling of the case appears appropriate.

10.160 We address the response of Children's Services in Chapter 9.

Case of WN743

10.161 During Operation Rectangle, an allegation was made by WN167 that while in foster care she was sexually abused by WN743, the son of the foster parents. WN743 was interviewed by the SOJP and he denied the allegations.¹²⁷

10.162 The foster parents, WN895 and WN896, were also seen by the SOJP. WN896 said that she used to work at HDLG which is where she met WN167 and other foster children. The States had agreed that the family could foster the children. When the allegations against her son were explained, WN895 called WN167 a liar and denied that she was ever told about the abuse.

10.163 Richard Davenport, WN167's¹²⁸ CCO at the time, gave a statement to the Police. He denied that WN167 ever disclosed sexual abuse by WN743. He denied that he told her to put this "*behind her*" and that he would ensure they did not foster more children.

10.164 We deal in detail below with the cases that were investigated as part of Operation Rectangle. In essence, our conclusion is that the Rectangle cases were all appropriately managed by the SOJP.

¹²⁷ WD006592; WD006593

¹²⁸ WD006598

Case of WN569 and WN744

10.165 In about 1984, WN569, a registered foster parent with whom WN140 was placed, was convicted of inciting gross indecency against his daughters and was imprisoned.¹²⁹

10.166 In 2008, allegations of sexual abuse were made against WN569 by WN140, a child in care who had been fostered by WN569. WN569 pleaded guilty in 2009 and was sentenced to 12 months' imprisonment.

10.167 WN140 also made allegations in 2008 that, when in the foster home, he was, on occasions, woken up at night by someone masturbating him. He shared a room with WN744, his foster brother.

10.168 In 2000, WN744 was convicted, in another country, of four indecent assaults on males under the age of 16. In 2002, while undergoing treatment, he confessed to a psychologist that he sexually abused his foster brother WN140 for about four years: he "*knew his foster brother would not say anything, as he did not want to be removed from the family and because he did not think he would be believed*".¹³⁰

10.169 Following this disclosure, a report was passed to the Jersey Probation and After Care Service on the basis that WN744 was returning to Jersey at the end of his sentence. In a memo to the SOJP, it is noted that a Risk Assessment Management System (RAMAS) meeting would be convened to assess the risk that WN744 posed to children (WD004970).

10.170 After WN140's disclosure in 2008, WN744 was interviewed and answered "no comment" to all questions. He was charged in December 2009 with three counts of indecent assault and was acquitted.

10.171 We consider that the Police response in 2008 was a proper one.

Case of Thomas Hamon

10.172 Brian Carter also investigated the case against Thomas Hamon over allegations of historic sexual abuse. The investigation lasted from 2004 to

¹²⁹ The Inquiry has not received any contemporaneous record of this conviction, but reference is made to it at WD004971/1

¹³⁰ WD004972

2006. Initially, there was only one complainant, who had had contact with Thomas Hamon through their shared involvement with St John Ambulance. Brian Carter obtained all the records of St John Ambulance members from 1965 to 1988 and then, through the use of a questionnaire which contained open questions, and did not name Thomas Hamon, was able to identify further victims.¹³¹ Prosecution was pursued. Brian Carter told us that he received support from his sergeants and from DI Robert Bonney. There was, he said, no reluctance within the Department to investigate complaints of historic abuse at HDLG. However, when the department was busy, current work had to take priority over historical investigations.¹³²

10.173 We accept that current work involving the present risk to children must often take priority over investigations into events in the more distant past. We also received evidence that the resources of the FPT were often stretched. It is clear, though, that this inquiry was pursued diligently; substantial and successful efforts were made to identify further victims, and prosecutions were pursued in respect of those victims.

Case of Jane and Alan Maguire

10.174 In 1990, two trainee care workers reported to Children's Services allegations that Jane and Alan Maguire, Houseparents of a FGH, had washed out children's mouths with soap, thrown a child across a room and hit children. No report was made to the SOJP. Robert Bonney described that failure as "*inexcusable*".¹³³

10.175 The allegations covered the period from 1980 to 1990. It was not until 1997 that Children's Services made a report to the Police. We set out in detail in Chapter 11 the history of the subsequent Police investigations and attempts to prosecute the Maguires. In 1997 the Police identified and interviewed a number of complainants and witnesses. A prosecution was commenced but was discontinued, following advice from Ian Christmas, a Force Legal Adviser, who expressed doubts about the nature and age of the witnesses and the vagueness of their evidence. His view was endorsed by Crown

¹³¹ WS000647/13

¹³² Day 103/59

¹³³ Day 114/165/130

Advocate Binnington, to whom the case had been passed for prosecution. Although not a reason for abandoning the prosecution, evidence was also received by prosecutors in 1998 that Alan Maguire was gravely ill.

10.176 The case was reconsidered as part of Operation Rectangle. Meanwhile, the Maguires had moved to France. The advice of the Law Officers and independent counsel was that, in the absence of compelling new evidence, the court would rule that an attempt to prosecute, having discontinued the prosecution in 1998, would be an abuse of process. At the request of Michael Gradwell, who had just arrived in Jersey to take on the role of Senior Investigating Officer (SIO) for Operation Rectangle, the Police were given more time to attempt to interview Alan Maguire; it was hoped that a confession might be regarded as sufficient new evidence. Alan Maguire refused to see the Police, and attempts to prosecute were abandoned for the second time in 2009.

10.177 The SOJP officers in 1998 and from 2008 showed dedication and tenacity in pursuing all available options. The prosecution was discontinued on each occasion by lawyers.

Difficulties in the relationship between the SOJP and Children's Services

10.178 We have considered above the Police view that the failure of Children's Services to report to the Police, in 1990, allegations of abuse by Jane and Alan Maguire was inexcusable. SOJP officers gave evidence that the Long-Term Team often opposed prosecution and opposed the removal of children from potentially abusive home environments. DCI Alison Fossey and Anton Cornelissen said that the Long-Term Team focused too much on a wish to keep a family together. Anton Cornelissen said that members of the team sometimes undermined the SOJP by telling a family that a prosecution was at the insistence of the Police and against the wishes of the Long-Term Team.¹³⁴

¹³⁴ Day 102/107

10.179 DCI Alison Fossey said that she quickly developed a positive working relationship with the Emergency Duty Team but that *“relations with the Long-Term Team were more difficult”*. She said:

*“The Long-Term Team were very slow in reporting suspected criminal offences to the States of Jersey Police and they placed a heavy reliance on the States of Jersey Police to take action rather than taking more initiative themselves. For example, Children’s Services seemed reliant on the States of Jersey Police to initiate criminal investigations rather than apply for an Emergency Protection Order or a Care Order of their own volition. We were constantly met with the response that the legal advice was that an application would not succeed.”*¹³⁵

10.180 Alison Fossey was sufficiently concerned, in April 2006, to write a memorandum to DCI Bonjour and to Bridget Shaw, the LOD lawyer working with the SOJP, about the working practices within a Children’s Services and the Long-Term Team in particular. She made specific criticism of Danny Wherry who she said, as Chairman of Case Conferences, would arrive at conferences with his mind made up and announce his decision at the outset.¹³⁶ DCI Alison Fossey told the Inquiry that this was not conducive to an open discussion and joint working between the various agencies.

10.181 Bridget Shaw passed on those concerns to the Solicitor General in a report dated 23 May 2006 and raised her own concerns that Children’s Services were waiting for the Police to act. She noted that Children’s Services did not appear to understand that they could take civil proceedings in which the standard of proof was lower than in criminal proceedings.¹³⁷

10.182 The issues raised were taken seriously. On 6 June 2006, the Solicitor General, Bridget Shaw, DCI André Bonjour and DS Alison Fossey met to discuss the points raised.

10.183 Bridget Shaw then met Marnie Baudains and Tony Le Sueur from Children’s Services. However, the Police view was that the situation did not improve but in fact deteriorated. By November 2007, some members of the Emergency Team had left and *“delays and questionable judgement issues remain”*,¹³⁸

¹³⁵ WS000687/7/30; Day 117/43

¹³⁶ WD008688/26; Day 117/56

¹³⁷ WD008696/52

¹³⁸ WD005327/9

said Bridget Shaw in a memorandum to the Attorney General dated 15 November 2007.

10.184 On 15 November 2007, Bridget Shaw sent a lengthy report to the Attorney General, William Bailhache QC, in which she set out the concerns about Children's Services that she and the Police held.¹³⁹

10.185 She also summarised the response of Children's Services to criticism:

*"Overall they believed they were doing a good job but felt unable to apply for court orders or to take children into care as the standards set by the court were very high ... the driving force behind these decisions seems too often to be whether Children's Services have suitable accommodation for the child rather than whether the child is at risk of harm if he or she stays in the home."*¹⁴⁰

10.186 Bridget Shaw expressed her own view, which we endorse:

*"When parents cannot or will not protect a child surely the State has a duty to act."*¹⁴¹

10.187 In his evidence to this Inquiry, Danny Wherry criticised the approach of the Police. He said that the FPT was staffed by inexperienced officers and that the Police sought to take control of the relationship with Children's Services. He said the Police would push for a child to be taken away from his or her family. DCI Alison Fossey rejected his criticisms. She said that the essential issue was that of risk to the child. In her view the Long-Term Team tended to focus too much on keeping a child with his or her family and did not consider the child's right to have a safe life.¹⁴²

10.188 In our judgement, the Police criticisms of the Long-Term Team were well founded. The response of the Police and lawyers to the perceived problems was appropriate. Certainly from 2006, when DS Alison Fossey took command of the FPT, the team was staffed with well-trained and well-motivated officers. As we have noted above, DCI Alison Fossey told us that the officers she inherited had experience but needed continuous professional development. She put the necessary policies and training in

¹³⁹ WD005327/5

¹⁴⁰ WD005327/9

¹⁴¹ WD005327/10

¹⁴² Day 117/58; WS000687/10

place. Further, DCI Alison Fossey was herself a very experienced officer, having been recruited to her role precisely because of her expertise in child protection work. We therefore reject Danny Wherry's view that the officers of the FPT lacked experience. We accept that, when there were differences of view between the Police and Children's Services, a vehemently expressed Police view that action should be taken could be construed by Danny Wherry as an attempt to take control of the relationship.

The Victoria College, Paul Every and Sea Cadets investigations

10.189 The SOJP investigations into Victoria College, Paul Every and the Sea Cadets are not within the Inquiry's Terms of Reference. We considered evidence about these investigations on the basis that the conduct and attitude of Police officers and others to those investigations might be relevant to the Police response to allegations of abuse of children in care. Further, these investigations all preceded and formed part of the background to the SOJP's major investigation into historic child abuse: Operation Rectangle.

Victoria College

10.190 In 1996, the SOJP launched an investigation into the abuse of boys by Mr Jervis-Dykes, a teacher at the college.

10.191 Anton Cornelissen was seconded to the FPT to assist DS Barry Faudemer with the investigation. There was an allegation that Mr Jervis-Dykes had taken boys to the Jersey Yacht Club. Anton Cornelissen said that he was made to wait outside while DI John de la Haye went in to inspect the visitors' book. He returned, not having seized the book, saying there was nothing of interest. Anton Cornelissen, in oral evidence, agreed that DI John de la Haye could have formed the honest view that there was nothing to be gained from the visitors' book. He also accepted that there was no suggestion that any Police officer witnessed Mr Jervis-Dykes behaving inappropriately at the Club.

10.192 Videotapes were seized from Mr Jervis-Dykes. A reviewing officer missed a section of tape which showed a sexual assault. Anton Cornelissen's view was that the officer had made an honest mistake either through fast

forwarding the table or through an erroneous belief that the passage in question was commercial footage, not footage showing Mr Jervis-Dykes.¹⁴³

10.193 DS Barry Faudemer was succeeded as the DS in charge of the FPT by DS Pryke (now deceased). Anton Cornelissen was critical of DS Pryke's lack of progress with the investigation but agreed that DS Pryke had not sought to close down the investigation, which was a recommendation he could have made.¹⁴⁴

10.194 During the course of his work, a box of material relating to the investigation disappeared from Anton Cornelissen's desk. When DS Pryke left the SOJP through illness and his Police locker was cleared, some of the missing material was discovered.

10.195 DS Barry Faudemer told the Inquiry that he was aware at the time that DS Pryke had removed files. He believed that this was simply an attempt to make room for further storage in an overcrowded office and that DS Pryke did not see the value of the intelligence files and so was putting them to one side. As far as DS Barry Faudemer was aware, no files had been destroyed. He regarded DS Pryke as a very motivated officer whose performance had dipped considerably while in the FPT; with hindsight he attributed these difficulties to DS Pryke's then undiagnosed illness.¹⁴⁵

10.196 In 1999, Mr Jervis-Dykes pleaded guilty to indecently assaulting a number of pupils and was sentenced to four years' imprisonment.

10.197 Barry Faudemer told the Inquiry that, on 3 November 2015, he had been given access by the SOJP to the Victoria College investigation files. They were intact and complete; they still bore the seals that he had put on them. He wished to reassure the victims who had come forward that their evidence had not been lost and was held securely.¹⁴⁶

10.198 Sir Michael Birt, Attorney General at the relevant time, told the Inquiry:

¹⁴³ Day 102/45

¹⁴⁴ Day 102/74

¹⁴⁵ Day 113/93

¹⁴⁶ WS000678; Day 113/91

“At the conclusion of the investigation the States of Jersey Police reported to me that they did not feel that they had the cooperation and support of certain staff at Victoria College ... I considered that the report (provided to me by the States of Jersey Police) raised matters that the Governors ought to be aware of and therefore wrote to them suggesting that they look into the matter raised. As a result they procured the preparation of the Sharp Report.”¹⁴⁷

10.199 In 1999, an investigation report completed by Steven Sharp (the “Sharp Report”) concluded that if the correct procedures had been followed by the school it is most likely that Mr Jervis-Dykes would have been suspended and perhaps arrested in 1992.

Paul Every

10.200 Paul Every was a senior civil servant in Jersey, identified during the course of the FBI’s Operation Ore as having obtained access to websites featuring child pornography. He was also an officer in the Jersey Sea Cadets.

10.201 In his witness statement, Lenny Harper referred to long delays on the part of the LOD making charging decisions in respect of Paul Every. Lenny Harper however failed to acknowledge that owing to the partial deletion of the hard disk it was necessary to have the computer examined by a forensic engineer. During the investigation, the LOD provided advice on how best to put together the case against Paul Every.

10.202 The SOJP were not persuaded that Paul Every could be charged and in June 2005 concluded:

“ ... because there are no images retained on the seized computer and there is no evidence of such images having been viewed there is insufficient evidence to found a prosecution”.¹⁴⁸

10.203 When the Attorney General reviewed the case he identified offences not previously considered. Paul Every was prosecuted and convicted.¹⁴⁹

¹⁴⁷ WS000608/15

¹⁴⁸ WD009017/57

¹⁴⁹ Day 121/63–67

10.204 There was a suspicion that someone within the SOJP “tipped off” Paul Every as his computer had been wiped clean shortly before Police searched his home. However the Inquiry heard that Paul Every had software on his computer designed to wipe its contents on a regular basis. We heard no evidence that he was “tipped off” about the search.

The Sea Cadets

10.205 Anton Cornelissen referred to another investigation into the alleged abuse of Sea Cadets. He discovered that an officer within the Cadets was widely known as “Petty Officer Pervert”. He thought that DI André Bonjour, a senior officer in the Cadets, must have known of this nickname but that he had failed to report any concerns to the FPT. In evidence, however, Anton Cornelissen said that he could not be sure whether in fact DI André Bonjour did know of the nickname.¹⁵⁰ André Bonjour told the Inquiry that in relation to the Paul Every investigation and the subsequent 2007 investigation into the Sea Cadets he declared his long-standing involvement with the organisation. He made clear to senior officers that he could have no role within the Police investigation. An email from André Bonjour to Police Legal Adviser Laurence O’Donnell dated 22 June 2007 confirms the stance he took at that time.¹⁵¹

Findings: Victoria College, Paul Every, Sea Cadets

10.206 The Victoria College allegations against Mr Jervis-Dykes were investigated, albeit some years after they could have been initially investigated. We have considered whether the conduct of DS Pryke could be said to amount to evidence of a cover-up and have concluded that it could not; we accept that DS Pryke, usually a conscientious officer, was badly affected by the serious illness from which he was suffering. DS Pryke did not close down the investigation which was a recommendation that he could have made. The investigation proceeded and concluded with the conviction of Mr Jervis Dykes.

¹⁵⁰ Day 102/94; WS000644/27/69

¹⁵¹ Day 109/126; WD008384

10.207 We have not been shown any evidence of an attempt to cover up sexual offending by Paul Every or by any Sea Cadet officer, or of any attempts to impede those investigations.

Events leading to the commencement of Operation Rectangle

10.208 Operation Rectangle was the name given in June 2007 to the SOJP investigation into allegations of historical abuse of children in Jersey. The investigation was initially covert but its existence was made public in November 2007.

10.209 Having worked on the investigations into WN264 and Thomas Hamon, DC Brian Carter began to wonder whether there was a connection between the two and whether unauthorised individuals had gained access to children at HDLG. In 2006 he discussed with DI Peter Hewlett his concerns that there might be a bigger problem than Police had thus far realised.

10.210 Peter Hewlett told the Inquiry that the Thomas Hamon case was “*the tipping point*” when put together with information provided over the years by other Police officers. The SOJP needed to investigate HDLG or, in his opinion, the complaints would keep coming and never go away.¹⁵²

10.211 Peter Hewlett and Brian Carter drafted a scoping report, following the outline for such a report suggested by the ACPO Guideline on investigation into historical child abuse. The report, dated 8 April 2006, was submitted to DCI André Bonjour, the DCI of Crime Services.¹⁵³ The report stated that “*rumours have been rife within the island for many years that Haut de la Garenne was notorious for the sexual, emotional and physical abuse allegedly handed out to residents*”. It was envisaged that any investigation would initially concentrate on HDLG with the potential to involve other homes. The officers received no response. Peter Hewlett asked for a meeting with DCI André Bonjour and at that meeting André Bonjour was generally supportive according to Peter Hewlett. He said that he did not have the authority to make a decision on his own and would refer the matter to the senior management team.

¹⁵² Day 104/117/118

¹⁵³ WS00647/16–19; WD008328/8, DS Peter Hewlett’s report

10.212 André Bonjour's evidence to the Inquiry was that both he and John Pearson, Head of Operations, had concluded that what was being proposed was a "fishing expedition" and that the report did not justify a wider investigation. There were no named victims and no formal complaint to be investigated. He did not regard the report as a proper scoping report. André Bonjour did not request any further details, nor did he tell Peter Hewlett that no investigation was to be pursued.¹⁵⁴

10.213 André Bonjour said that he did not ask for further information because John Pearson, Head of Operations, made the decision that there was to be no investigation and, as far as he was concerned, that was the end of the matter.

10.214 In July 2007, Lenny Harper asked for a meeting with Peter Hewlett and Brian Carter to discuss their report. It was Peter Hewlett's opinion that there should be an investigation into HDLG.¹⁵⁵ Lenny Harper and Graham Power agreed that André Bonjour's conduct should be investigated by another Police service; South Yorkshire Police were asked to advise on whether André Bonjour should be prosecuted for misconduct in public office.¹⁵⁶ John Pearson, in a witness statement made to the Inquiry, said that he knew nothing about the scoping report until Lenny Harper asked him in 2007 or 2008 (after his retirement) whether he would cooperate in the South Yorkshire Police investigation. He saw the report for the first time when South Yorkshire Police showed it to him.¹⁵⁷ In his view it did not contain sufficient detail to be regarded as a proper scoping report, but it did contain enough information to allow further enquiries to be made. He said that the matters raised should have been investigated fully.¹⁵⁸

10.215 John Pearson declined to give oral evidence to the Inquiry. He no longer resides in Jersey and therefore could not be compelled to attend. He said in his statement to the Inquiry:

¹⁵⁴ Day 104/137–140

¹⁵⁵ Day 104/143

¹⁵⁶ Day 107/40

¹⁵⁷ WS000685/8

¹⁵⁸ WS000685/10–15

*“Whilst I cannot explain Mr Bonjour’s version of events, I do not think he has intentionally acted corruptly or attempted to cover anything up – I can only put it down to some mistake or misunderstanding. I always considered Mr Bonjour to be an excellent officer and I never had any cause to question his integrity. He had demonstrated his honesty at the time of the investigation into Paul Every of the Sea Cadets ... He had a connection with the Sea Cadets and that he should not be involved due to a conflict of interest.”*¹⁵⁹¹⁶⁰

10.216 André Bonjour was also alleged to have failed to pursue an alleged link between retired DCI John de la Haye and suspected child abusers. André Bonjour was asked in evidence to the Inquiry about this allegation. He said that he told DI Alison Fossey to follow-up the suggestion of a link and trusted DI Alison Fossey and those under her command to carry out the investigation properly.¹⁶¹

10.217 In November 2008, John Edmonds, Director of the Criminal Division of the LOD, advised the Attorney General on the question of whether André Bonjour should be prosecuted for misconduct in public office in respect of either of these two alleged failures. The independent South Yorkshire Police report had concluded that *“there is insufficient evidence upon which to base a prosecution in respect of any criminal matter”*. John Edmonds, in a memorandum to the Attorney General set out the allegations against André Bonjour.¹⁶²

10.218 In respect of the “scoping report” John Edmonds noted that it was common ground that no action was taken in relation to the report. He wrote to the Attorney General on 17 November 2008:

*“There is a strong inference that Andre Bonjour filed the report in his “too difficult to deal with” tray and by the time at which former DCO Harper started to investigate the matter there was no trace of the original report ... I am not satisfied that we could ever prove to the criminal standard that Andre Bonjour had sat on the report ... Regrettably I am afraid that it is probably a fairly typical example of the Police deciding for a combination of reasons not to grasp a potentially painful nettle.”*¹⁶³

¹⁵⁹ WS000685/13

¹⁶⁰ We consider below the investigation into offences alleged to have been committed by Paul Every

¹⁶¹ Day 109/152

¹⁶² WD009000/33

¹⁶³ WD009000/34

10.219 John Edmonds concluded that André Bonjour's conduct fell short of the conduct required for a criminal offence to have been committed. However he advised that the Police be invited to consider disciplinary action.¹⁶⁴

10.220 The South Yorkshire Police report had recommended that André Bonjour's conduct be dealt with as an internal disciplinary issue rather than by way of prosecution. Although apparently drafted using the **Association of Chief Police Officers** (ACPO) guidelines, the Hewlett/Carter report provided insufficient detail to be a proper scoping report. On the other hand, it did provide sufficient information to warrant an urgent response.

10.221 We consider that this was an inadequate response by the SOJP to allegations of abuse. However, we are not satisfied that any actions were taken deliberately to obstruct the investigation of abuse.

Additional factors leading to the establishment of Operation Rectangle

10.222 Graham Power said that, in his opinion, the following led to the establishment of Operation Rectangle:

- the Paul Every case;
- the potential link between a suspect and a retired Police inspector;
- the Victoria College investigations;
- the public perception that, in the past, child abuse had been covered up in order to protect senior figures.¹⁶⁵

10.223 In mid-2007, a SCR was published involving a child (not a child in care) who had been subjected to sexual abuse. DCI Alison Fossey said that it was, in her opinion, the SCR that caused Lenny Harper to pursue the investigation of child abuse.¹⁶⁶

10.224 Lenny Harper referred in his evidence to the cases cited above. He said that it was his impression that while there was no organised paedophile ring in

¹⁶⁴ WD009000/34

¹⁶⁵ Day 107/44

¹⁶⁶ Day 118/2; WS000687/22

Jersey there was “a loose arrangement and more widespread than a single ring ... It was endemic through certain parts of Jersey society”.¹⁶⁷

Finding: the decision to set up Operation Rectangle

10.225 In response to Term of Reference 12, we are quite satisfied that the concerns referred to above more than justified the decision in 2007 to set up Operation Rectangle.

10.226 The evidence indicates that an emerging picture developed in 2007, against the background of the investigations into allegations against Thomas Hamon and WN264 and the Victoria College scandal. The Paul Every case (involving Sea Cadets) would inevitably have attracted the attention of the public as well as senior Police officers. The allegation of a link between offences (by different offenders) against a Sea Cadet and a retired Police officer would clearly have been disturbing. Graham Power gave evidence of a perception that offences by senior figures in Jersey may have been covered up. Then, by July 2007 at the latest, Lenny Harper became aware of the scoping report and of the fact that nothing had been done in response to it. The SOJP were aware by mid-2007 of a number of apparently unconnected offences or alleged offences against children, said to involve people in influential positions who had easy access to children. There was evidence of past as well as more recent abuse. In those circumstances, the instigation of an operation to look for any links between these offences and/or to determine whether there were other offenders who had preyed on vulnerable children was clearly justified.

Initial leadership of Operation Rectangle

10.227 DI Alison Fossey was initially the SIO of the historic abuse inquiry. Professional Standards issues soon arose, such as when a SOJP officer was a potential suspect. Lenny Harper, as DCO, had to investigate professional standards issues and the decision was therefore taken to merge the criminal and professional investigations and for DCO Lenny Harper to become the SIO, with DI Alison Fossey as his deputy. Lenny Harper was an

¹⁶⁷ Day 121/105

experienced Police officer and had a reputation as a highly skilled investigator but did not have recent criminal investigation experience. He had assistance from Devon and Cornwall Police in the use of the HOLMES system. Alison Fossey had been trained as a SIO. Graham Power said that he recognised that, despite the experience of DCO Lenny Harper and DI Fossey, senior detective assistance would be needed and so sought UK experts to provide guidance. Andy Baker, Deputy Director of the Serious Organised Crime Agency, headed the ACPO team that provided that guidance.¹⁶⁸

10.228 Lenny Harper explained in evidence that the covert phase initially concerned investigations into offending within the Sea Cadets. As files relating to incidents at HDLG were considered, and Police officers began to report their past requests for an investigation into events there, the operation developed a new context. Lenny Harper said that he wanted to maintain a small, tight team to reduce the risk of leaks to possible suspects. He was also concerned, he said, about interference from politicians.

10.229 Lenny Harper's concerns were clearly a factor influencing the setting up of the covert stage of Operation Rectangle. On the question of the possibility of political involvement during the covert stage, we are mindful of the evidence of Graham Power. He said that throughout this stage he provided briefings to the Minister for Home Affairs (Senator Kinnard), the Chief Minister (Frank Walker) and the States Chief Executive Officer (CEO) (Bill Ogley).

10.230 It was his impression that the politicians had not grasped the importance of the investigation. They were not overtly hostile, but did not appear to have any sense of urgency in the need to have a plan. He warned them when the operation was about to be made public and urged them to have a plan to deal with media interest.¹⁶⁹ This communication between the Chief Officer and senior members of government was clearly necessary; those with ministerial and administrative responsibility for policing, and the Police budget, obviously had to be briefed on the operation, and had to be in a position to deal with media attention. Our understanding is that the briefings

¹⁶⁸ Day 107/2; Day 121/73ff

¹⁶⁹ Day 107/45

were, appropriately, initiated by Graham Power, and we do not regard the contact as amounting to political interference.

Public phase of Operation Rectangle: allegations of cover-up

10.231 The Police made Operation Rectangle public in November 2007, when they learned that Senator Stuart Syvret had invited the BBC's Panorama team to Jersey to make a programme about historical child abuse. Senator Stuart Syvret, the Minister for HSS, was known as a champion of abuse victims but the SOJP had not told him of the detail of the covert operation.¹⁷⁰

10.232 The SOJP provided a draft press release to the Chief Minister, the Chief Executive and to Senator Stuart Syvret the night before they intended to announce the existence of Operation Rectangle. Senator Stuart Syvret pre-empted that announcement by issuing his own press statement that night.¹⁷¹

10.233 The Police draft press release referred to "*victims*" of abuse. Bill Ogley suggested that the term implied that offences had definitely been committed. Lenny Harper was unwilling to make any amendments and, according to Lenny Harper, Bill Ogley said that reference to "*victims*" would be bad for Jersey's reputation. He told the Inquiry that he was under no illusion (after the meeting on 22 November 2007) that Frank Walker and Bill Ogley did not want an historical child abuse investigation. They told him that it would bring down Jersey's government.¹⁷²

10.234 Frank Walker denied that he or Bill Ogley had made such a statement. He said that while he and Bill Ogley were unhappy about the fact that an investigation was needed, that did not mean they were opposed to one taking place.¹⁷³ Bill Ogley said that his understanding of Ministers' views and in particular, the view of the Chief Minister, was that the whole purpose of Operation Rectangle was: "*to ensure that guilty people were prosecuted and brought to justice and nothing must stand in the way*".¹⁷⁴

¹⁷⁰ Day 121/120; WD008334/239

¹⁷¹ Day 121/125

¹⁷² Day 121/154

¹⁷³ Day 123/83

¹⁷⁴ Day 129/44

10.235 Once the existence of Operation Rectangle had become public, Ministers stated that there had been no cover-up and that the investigation must be allowed to take its course. Graham Power said that some political figures were supportive, some gave “critical friend” support and that Frank Walker and others visited HDLG and gave words of support. However, he also told the Inquiry that Senator Wendy Kinnard was telling him that there was a difference between public statements of support and what colleagues were saying privately; in private they were hostile to the investigation and said they wanted to bring it to an end.¹⁷⁵ Lenny Harper gave evidence to similar effect.¹⁷⁶

10.236 Keith Walker said that he gave unequivocal support to the investigation although he recognised that one of his Ministers (Senator Ben Shenton) did not. In emails to Ministers and States members he made it very clear: “*let the Police get on with the job, you must not interfere with the Police investigation.*”¹⁷⁷

10.237 The Attorney General, William Bailhache QC, told Graham Power that he had heard of the allegation of cover-up and requested that any investigation be conducted by an external Police service. Graham Power’s response was that it was for him to decide whether an external Police service should be involved and that, in any event, no decision had yet been taken as to whether there should be a criminal investigation (into any alleged cover-up). Graham Power explained to the Inquiry that there was no question of the Attorney General seeking to discourage an investigation; the Attorney General wanted one that was demonstrably independent.¹⁷⁸

10.238 Graham Power took advice from the Solicitor General, Timothy Le Cocq QC. The Victoria College and Maguire files and some further randomly selected files in child abuse cases (in which no action had been taken) were sent to Advocate MacRae to advise whether decisions had been taken properly. Advocate MacRae was a Jersey lawyer, then in private practice and independent of the Law Officers (and the SOJP). As a further check,

¹⁷⁵ Day 107/37
¹⁷⁶ Day 121/156ff
¹⁷⁷ Day 123/84
¹⁷⁸ Day 107/52

Advocate MacRae would, in respect of the randomly selected files and the Maguire case, also obtain the opinion of a barrister based in England.

10.239 Advocate MacRae concluded that any differences in view between the reviewers and those who made the original decisions were within the range of normal judgment or discretion. In the Victoria College case, he advised that it would have been legitimate at the time of the investigation for the prosecution of others to be considered, but that it was now too late to do so.¹⁷⁹

10.240 Graham Power concluded that there was no basis for a criminal investigation into any cover-up in relation to past decisions. He told the Inquiry that, with hindsight, he realised that he had asked Advocate MacRae for an opinion based on the files that were available in each case. He had not asked for a view on whether the content of the files was adequate, nor had he (or anyone) considered whether the Police investigation – rather than the ultimate decision on prosecution – was flawed.¹⁸⁰

10.241 We accept that both the Attorney General and CO Graham Power acted in good faith in their approach to the allegations of past cover-up. We believe that Graham Power acted appropriately in seeking independent legal opinion, and that he made a reasonable decision – not to conduct a criminal investigation – on the basis of the material available to him. Graham Power himself acknowledged to us the limitations of the material, in that he did not have any evidence as to the adequacy of the initial Police investigation. However, we consider that he made reasonable and proportionate efforts to identify any failings in the investigation and ultimate decisions not to prosecute. We consider that, had there been any suspicious failures in the investigations, such as avenues of investigation not pursued, or difficult questions not asked of suspects, the lawyers who considered the case files (at the review stage) would have spotted at least some of them.

¹⁷⁹ WS000536/67

¹⁸⁰ Day 107/54–55

Political involvement in Operation Rectangle

- 10.242 In mid-2007, while Operation Rectangle was still covert, Senator Stuart Syvret raised concerns following publication of a SCR into the case of a child who had been subjected to sexual abuse. He was critical of the review itself and of the failings it revealed, particularly within the HSSD. He was critical of the performance of his own department (of which he had been in charge for eight years) and other agencies.
- 10.243 Frank Walker said that the Council of Ministers' initial response was to seek to establish the true position at the HSSD. A three stage plan was created and the first two stages implemented quickly: first, departments were to liaise more closely, and secondly there was to be an independent review of child care [Andrew Williamson was appointed to conduct the review]. The third stage of the plan was a public Inquiry.¹⁸¹
- 10.244 In his evidence to us, Frank Walker accepted that the criticisms made in the serious case review provided some support for Senator Stuart Syvret's claims but said that they did not justify Senator Stuart Syvret's assertion of failings on such a fundamental scale.¹⁸²
- 10.245 He said that Senator Stuart Syvret made inappropriate public attacks on civil servants and continued to make unsubstantiated claims in respect of child welfare failings.¹⁸³
- 10.246 On 25 July 2007, a meeting of the Corporate Management Board and a meeting of the Child Protection Committee took place at the same time. After the meeting of the full Board, Bill Ogle asked representatives of agencies who dealt with child welfare to stay behind. Graham Power told the Inquiry that Bill Ogle then explained to the heads of the relevant agencies that the Chief Minister wished to get rid of Senator Stuart Syvret. He wanted their support because a vote of no confidence at the Council of Ministers might be contentious. Graham Power declined to take part on the basis that the SOJP

¹⁸¹ Day 123/78

¹⁸² Day 123/70

¹⁸³ WD008868/84

should be politically neutral. Bill Ogley then asked him to leave the meeting.¹⁸⁴

10.247 Bill Ogley's evidence to the Inquiry was that he wanted to know whether Senator Stuart Syvret's conduct was having a detrimental effect on those departments. He was not seeking to influence the Chief Officers' views.¹⁸⁵

10.248 The other Chief Officers stayed, but did not want their views conveyed to Ministers on what they regarded as a political issue. Bill Ogley told the Inquiry that their views were not in any event of sufficient concern in aggregate to be reported: *"They (the concerns) were being dealt within individual departments and within the remit of the States Employment Board."*

10.249 At the Child Protection Committee meeting, DCI Alison Fossey was also asked to participate in a vote of no confidence but declined to do so. She then left the meeting, and we have no further evidence of discussions at the meeting on that topic. The minutes of the meeting contained no reference to this vote, and it appears that they were not circulated. The minutes of the following meeting of this Committee contain no reference to the minutes of the meeting of 25 July 2007.

10.250 Frank Walker told the Inquiry that there was nothing odd about the same issue being raised at both of these meetings; it was the key political issue of the time.¹⁸⁶ Wendy Kinnard believed that the meetings had been orchestrated and that the civil servants had intervened inappropriately in a political matter.¹⁸⁷ We have no doubt that the meetings had been orchestrated; it would be extraordinary if at two meetings, held at exactly the same time, a vote of no confidence in Senator Stuart Syvret had been called entirely by coincidence. We do not have evidence from which we could conclude that the civil servants who attended the meetings behaved inappropriately. It appears that those who attended the Chief Officers' meeting did not know in advance of the request that Bill Ogley was to make,

¹⁸⁴ WS000536/47/161; Day 107/23

¹⁸⁵ Day 129/17

¹⁸⁶ Day 123/58

¹⁸⁷ Day 135/20

and that they – entirely properly – declined to have conveyed to Ministers any criticisms that they might have of Senator Stuart Syvret.

10.251 On 27 July 2007, six of the 10 Ministers wrote a letter to Chief Minister Frank Walker calling for Senator Stuart Syvret to be dismissed as a Minister.¹⁸⁸

10.252 Frank Walker told us that he tried to resolve matters with Senator Stuart Syvret, seeking to persuade him to apologise for his public attacks on civil servants (which were a breach of the Ministerial Code). He also tried to persuade Senator Stuart Syvret that the Council's proposed three stage approach provided the necessary independent and rigorous scrutiny of his claims. Reconciliation was impossible, said Frank Walker, and the Senator was removed from his post, the basis being his breaches of the Ministerial Code.¹⁸⁹

10.253 Stuart Syvret continued to campaign against what he perceived to be failures to protect children and the covering up of abuse. It was the discovery that Stuart Syvret intended to give a BBC interview that caused the SOJP to make public the fact that Operation Rectangle had commenced.

10.254 Stuart Syvret maintained his active interest in Operation Rectangle and Lenny Harper said in evidence:

“Stuart Syvret was asking legitimate questions, making legitimate enquiries on behalf of ... victims. Sometimes Stuart Syvret would make enquiries that I wouldn't think were legitimate and then I wouldn't give him the information ... Stuart Syvret was coming in to incident rooms and sending emails all the time. There's no secret about it, they are all over the place. He was representing the interests of a number of victims and even if I hadn't wanted to speak to him, which I had no problem with, it would have been very difficult to avoid him. So there's nothing sinister ...”.

10.255 Frank Walker asserted that Graham Power, Lenny Harper and Stuart Syvret colluded in a campaign to highlight corruption among Jersey's judiciary, politicians and lawyers. He accepted that they probably did genuinely believe corruption to exist but said that he had yet to see any evidence of it from any of them. He could not go as far as to say Graham Power wanted to bring

¹⁸⁸ WD008868/84

¹⁸⁹ Day 123/59

down Jersey's establishment but asked why, if he (Graham Power) believed there to be corruption he did not investigate it, being the person in Jersey best placed to do so.¹⁹⁰

- 10.256 Stuart Syvret has not given evidence to this Public Inquiry. Requests to him were made on a number of occasions seeking his assistance and any relevant evidence he might have. As a States member for many years, latterly as the Minister for HSSD, his contribution to the work of this Inquiry may have assisted. His refusal to assist is to be regretted.
- 10.257 We conclude that, following publication of the SCR of a child subjected to sexual abuse Stuart Syvret highlighted relevant issues which needed to be addressed to ensure the protection and safety of children in Jersey. His actions did not amount to political interference with Operation Rectangle. Until November 2007, Operation Rectangle was covert, and Senator Stuart Syvret was unaware of it. He could not, therefore, have done anything with the intention of interfering with Operation Rectangle, or even being reckless or careless about whether he interfered with it.
- 10.258 His public attacks on civil servants were inappropriate and did not assist his cause. We accept that Frank Walker and Bill Ogley were genuinely troubled by his conduct in this respect, believing his behaviour to be incompatible with his duty as a Minister, and we do not believe that the moves to remove him were conducted with the intention of covering up child abuse. In those circumstances, further consideration of the reasons for, and manner of, his removal from post does not fall within our Terms of Reference.
- 10.259 Once Operation Rectangle had become overt, Senator Stuart Syvret took a close interest in the Police enquiry, attending the incident room and asking many questions. We accept Lenny Harper's evidence that some of the questions were legitimate, and that the Police simply refused to answer questions that were inappropriate. We do not conclude that Senator Stuart Syvret's involvement in the Police investigation amounted to political interference with Operation Rectangle.

¹⁹⁰ Day 123/138

Search of Haut de la Garenne and the response to it

10.260 The Inquiry is not required to determine whether policing decisions were right or wrong except in so far as those decisions have a direct relevance to the Terms of Reference. The key issues are:

- under Term of Reference 11, the response of the Police to the abuse allegations; and
- under Term of Reference 13, the process by which Police files were submitted to the prosecuting authorities, and the way in which decisions whether to prosecute were made.

10.261 A great deal of media attention was generated by the SOJP press statement dated 24 February 2008, which included the assertion that “*the partial remains of what is believed to have been a child*” had been found at HDLG. Subsequent scientific analysis revealed that the item believed at that time to be part of a child’s skull was not human bone and was probably coconut shell. Graham Power agreed that making the assertion quoted above in the press statement was “*not good*”.¹⁹¹

10.262 In fairness to Graham Power, we should note that he went on to say that there were leaks from the investigation (to the media) and that there was no possibility of keeping secret the fact that a significant find had been made. He emphasised that the Home Office scientist at the scene had said that the item was a piece of a child’s skull.¹⁹²

10.263 Graham Power acknowledged in his witness statement to the Inquiry that, when Lenny Harper referred in his press release to “*the potential remains of a child*” having been found, his words were “*insufficiently precise*”, not because they were untrue (because at the time they were believed to be true) but because they were capable of wider interpretation than would be justified through the discovery of a single fragment of bone. However, as Graham Power pointed out, if part of a child’s skull had been discovered, then that child must be dead.¹⁹³ When asked in evidence about media

¹⁹¹ Day 107/74

¹⁹² Day 107/75

¹⁹³ WS000536/85

reporting, Graham Power drew a legitimate distinction between the information actually provided by the Police to the press and the exaggerated reporting that followed. When asked whether more should have been done to correct inaccurate press reporting Graham Power conceded that “*of course*” it should have been.¹⁹⁴

10.264 The SOJP at this stage issued press releases almost daily. Jersey became a focus of media attention with frequently lurid headlines in the national and international press. This attention inevitably caused concern to many Jersey politicians. Frank Walker said that “*the island went into complete shock*” and referred to a church service held by the Anglican Dean of Jersey to commemorate and pray for those children believed to have been murdered.¹⁹⁵

10.265 Michael Gradwell, who joined the Operation Rectangle team as its SIO in September 2008, told the Inquiry that he had no criticism of Graham Power for treating HDLG as a potential homicide scene at a time when the fragment was thought to be human bone.¹⁹⁶

10.266 In an email dated 26 February 2008, Bill Ogle wrote to Graham Power and the Attorney General, William Bailhache QC, making clear his view that there should be no further comment about the investigation by the Chief Minister, Frank Walker, or on Ministers’ behalf:

*“the only way to get to the bottom of it is to let the Police enquiry run its course and ensure that any prosecutions are successful”.*¹⁹⁷

10.267 Bill Ogle suggested that he, Graham Power, and the Attorney General hold a press conference to explain that continued media speculation might jeopardise fair trials and therefore there would be no political comment. Graham Power opposed the idea of a joint press conference:

“... my feeling about what you propose is that we reinforce remaining suspicions that we are all part of a senior ‘club’ as opposed to what I see as the correct situation ... we each head separate entities which

¹⁹⁴ Day 107/86

¹⁹⁵ WS000697/19

¹⁹⁶ Day 111/58

¹⁹⁷ WD007170/332

*are powerful in their own way but are controlled by a system of checks and balances”.*¹⁹⁸

10.268 The Inquiry has seen correspondence and notes of meetings involving politicians, the Attorney General, Graham Power and Lenny Harper in which the Attorney General urged politicians not to intervene. He also sought to persuade the SOJP to correct inaccurate reporting. The Attorney General stated repeatedly his concern about the effect of publicity on any prosecutions. Politicians, especially Senator Ben Shenton, expressed their concern about the effect of this publicity on the reputation of the island. On 2 March 2008, Senator Ben Shenton wrote to Senator Wendy Kinnard, complaining of the publicity and speculation surrounding the discovery of the piece of “bone” and asked: *“Why have you allowed your Ministry to be run in such an unprofessional and shameful manner?”*¹⁹⁹

10.269 On the same day, the Attorney General sent an email to the Council of Ministers:

*“This is not the time to have any more public comments or spats about why things have happened as they have. Can we please let the justice issue be dealt with by the justice agencies or there stands the risk that there will be even more damage done to the victims of crime, to the accused and to the witnesses called to give evidence, and thus to the island’s credibility as being able to manage its own processes.”*²⁰⁰

10.270 CO Graham Power clearly felt that he was under unacceptable political pressure. Having seen Senator Ben Shenton’s email, he wrote to the Chief Minister, stating:

“ ... I regard the contents of the email with concern. It is defamatory, inaccurate, and most seriously is capable of being read as an attempt to undermine the investigation. It has already consumed resources which could have been better used. It is of course a document which could be disclosed in any future prosecution process.

I feel that as Chief Officer of Police it is now the time for me to state clearly that this type of interference should cease. On a daily basis we are asked if there has been any political interference in the case. Yesterday we said ‘no’. It is probable that tomorrow we will still be able to justify saying ‘no’. However, if there are any more actions of this nature which appear to me intended to undermine the investigation or

¹⁹⁸ WD007170/331

¹⁹⁹ WD008204/5

²⁰⁰ Day 123/166

*its key participants I will regard that as unacceptable and consequences will follow ...*²⁰¹

10.271 On 3 March 2008, Frank Walker sent an email to the members of the Council of Ministers:

*“Dear all, I am aware that there is disquiet about some of the media statements issued by the Police in relation to discoveries at Haut de la Garenne and serious questions have been put to Wendy. Although I reiterate my belief that those questions need to be answered, at the right time, I also repeat my previous statements that now is most definitely not the time. I have received further information today that makes it clear that any approaches to the Police, questioning or public statements will be regarded as interfering with the investigation and likely to be publicly disclosed. That is unthinkable and would put the minister concerned in an untenable position. I need to make it clear that any minister who fails to follow the correct procedures, and who may be responsible directly or indirectly for any suggestion of interference, will be on his/her own and will be exposed as such.”*²⁰²

10.272 Graham Power arranged for members of Andy Baker’s ACPO team to meet ministers in his, Graham Power’s, absence, so that ministers could raise, and the ACPO team address, any concerns that politicians had about the professional standards of the investigation. One such meeting took place on 7 March 2008. Senator Wendy Kinnard told the Inquiry that there were two or three ACPO meetings, during which members of the ACPO team made some recommendations but no substantive criticisms.²⁰³

10.273 On 27 March 2008, in a televised meeting of the Council of Ministers, the proposal to set up a Public Inquiry was announced. It was said that no enquiry could take place until the completion of any criminal proceedings.²⁰⁴

10.274 On 31 March 2008, Frank Walker and his wife visited the scene of the Police operations at HDLG. Lenny Harper told them that new forensic evidence indicated that no murders had taken place. Frank Walker was relieved and said he awaited a public announcement from the SOJP. When no such announcement was made he discussed the situation with the Home Affairs

²⁰¹ WD8204/6

²⁰² WD008868/240

²⁰³ WD008190, Day 135/79

²⁰⁴ Day 123/143

Minister (Wendy Kinnard). They decided that it would be wrong to seek to interfere.²⁰⁵

10.275 On 18 April 2008, the SOJP issued a press statement in respect of the “*fragment of skull*” found at HDLG the previous February. They said that it was not possible to date the item but it was unlikely that a formal homicide investigation would be instigated in relation to the bone alone. The site: “*must remain the scene of a possible homicide*” until such time as the excavations were complete. A number of bloodstained items had been found in two of the cellars but it was not known whether there was an innocent explanation for these items.²⁰⁶

10.276 On 2 May 2008, Lenny Harper sent an email to Frank Walker, Bill Ogle and Wendy Kinnard. He said that, in the previous week, two children’s milk teeth and a number of bone fragments had been recovered. Initial forensic examination indicated that the child had died no earlier than the 1950s. Confirmation by carbon dating would mean that a homicide enquiry would have to be launched. This information was subsequently made public.²⁰⁷

Political response to the continuing Operation Rectangle investigation

10.277 On 20 May 2008, Frank Walker wrote to Senator Wendy Kinnard (Home Affairs Minister), saying:

*“I ... have been counselling people all day not to jump to conclusions, to await the further results from the lab, and not to forget that there is an ongoing investigation into the most serious allegations of child abuse which has to be supported and which has to be able to arrive at a full and proper conclusion. I have also robustly dismissed calls for your resignation and Mr Harper’s suspension.”*²⁰⁸

10.278 Frank Walker denied that he had sought to bully Senator Wendy Kinnard, either through this email or at any other time.²⁰⁹ Senator Wendy Kinnard said that she had not known at the time of any calls for her resignation; she was

²⁰⁵ Day 123/139

²⁰⁶ WD007174/2

²⁰⁷ WD008868/230

²⁰⁸ WD008868/259

²⁰⁹ Day 124/23

away from the island. She felt intimidated by the email, while recognising that the email did appear to offer Frank Walker's support.²¹⁰

10.279 Senator Wendy Kinnard told the Inquiry that Frank Walker never said that he had ceased to support the investigation: "*It was much subtler.*" She believed, however, that the Council of Ministers, as they became increasingly exercised about the effects on Jersey of bad publicity, ceased to support Operation Rectangle, while acknowledging that they were "*stuck with it*".²¹¹

10.280 She said that, up until May 2008 (when, for legal reasons, she ceased to be involved in Operation Rectangle), the Council made "*decent*" decisions relating to the investigation. She did not believe that Ministers wanted to cover up abuse; they just wanted the issue to go away and one way of achieving that was "*to minimise it in their own minds*".²¹²

10.281 On 23 May 2008, Senator Wendy Kinnard had a meeting with Frank Walker at which (on the advice of the Attorney General) she explained that she was going to cease to have oversight of Operation Rectangle. Her evidence was that Frank Walker behaved in a bullying manner and said that he was no longer sure that she should remain a Minister at all. She also recalled Bill Ogley saying at that meeting (which was also attended by Graham Power) that Lenny Harper should be removed. On being told by Graham Power that that was not going to happen, Bill Ogley said to Senator Wendy Kinnard: "*Well, if you don't remove the Deputy Chief, then there's always the case of considering removing the Chief.*"²¹³

10.282 Graham Power's view was that politicians and those in government were willing to cover up child abuse in order to protect Jersey's reputation. Frank Walker and Bill Ogley told him that Operation Rectangle was damaging Jersey's reputation. He told them that the only way to respond to the abuse allegations was to investigate them fully and that Jersey's reputation would be enhanced by a thorough enquiry.²¹⁴

²¹⁰ Day 135/134

²¹¹ Day 135/67

²¹² Day 135/69

²¹³ Day 135/143–149

²¹⁴ Day 107/38

10.283 Graham Power told the Inquiry that he was not prepared to discuss Police investigations with States members. The questioning in respect of Operation Rectangle was “*quite nasty, quite aggressive and hostile*”.²¹⁵

10.284 It became public knowledge that the Director of Education at the time, Mario Lundy,²¹⁶ was suspected of the physical abuse of children. Graham Power said that, at a meeting attended by himself, Bill Ogley and Mario Lundy, Bill Ogley said: “*If anyone wants to get Mario they will have to get me first.*” Graham Power said that the statement was met with applause by some of those present and he took this incident as indicating the closing of ranks by the “in crowd” against the “threat” of Operation Rectangle.²¹⁷

10.285 Frank Walker said in his statement to the Inquiry that he was committed to ensuring that the Police investigation progressed without hindrance. He identified four statements of intent that he developed:

- no stone would be left unturned to enable the Police to investigate and bring to justice anyone who had abused a child or had, by their silence or otherwise, aided and abetted such abuse;
- there would be no constraints on the Police budget in their investigation into child abuse;
- victims would be given every possible support;
- there would be a totally independent Public Inquiry into historic abuse where the island had failed to protect vulnerable children. Painful lessons had to be learned.²¹⁸

10.286 Frank Walker told the Inquiry that he was concerned about Graham Power’s apparent inability to control Lenny Harper. When he suggested that Graham Power (not Lenny Harper) should do the press conferences, he was astonished by Graham Power’s refusal and his stated wish not to upset Lenny Harper. Frank Walker concluded that Graham Power was unable to stand up to Lenny Harper.²¹⁹

²¹⁵ Day 107/72

²¹⁶ Former Principal at Les Chênes

²¹⁷ WS000536/71/237; Day 107/65

²¹⁸ WS000697/22

²¹⁹ Day 123/154

10.287 The public perception at that time was, we believe, succinctly dealt with in the submissions to this Inquiry by the JCLA:

“It would be wrong and misleading to suggest that any of the politicians condoned child abuse, but the stance they adopted led to a rapid polarisation between those who wanted aggressively to pursue the investigation and those who had concerns for Jersey’s reputation. Some politicians wanted to have it both ways which only seemed to compound the problem which was being created, that is, a breakdown in trust.”

Sir Philip Bailhache’s Liberation Day speech: May 2008

10.288 On 9 May 2008, the Bailiff, Sir Philip Bailhache, made the Liberation Day speech, which included the statement:

“all child abuse, wherever it happens, is scandalous, but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal”.

10.289 In his evidence to the Inquiry, Sir Philip said that he had considered “*in the round*” the effect that his speech would have but had not considered in particular the impact that his words “*but it is the unjustified and remorseless denigration of Jersey and her people that is the real scandal*” might have on the victims of abuse. He said that it was a “*false reading*” of the passage to interpret it as suggesting that child abuse investigations came second to respect for the island. He was not seeking to minimise the gravity of any child abuse. He also said that he felt that Lenny Harper was deliberately feeding information to the media with a view to achieving sensational headlines and that he “*would not have been disappointed*” had Lenny Harper taken his comments as a reflection on the way in which the investigation was being conducted.²²⁰

10.290 Sir Philip said that perhaps his juxtaposition of words was unfortunate. He accepted that as a highly experienced lawyer he was accustomed to choosing words carefully. His purpose was to address the island as a whole and encourage Jersey people not to feel ashamed of their history. The

²²⁰ Day 125/94

apparent comparison between the importance of child abuse and Jersey's reputation did not occur to him.²²¹

10.291 We have considered whether Sir Philip's words indicated a belief on his part that the reputation of Jersey was of more importance than the child abuse investigation. We cannot accept that a politician and lawyer of his experience would inadvertently have made such an "*unfortunate juxtaposition*". We are sure that the way in which Jersey is perceived internationally matters greatly to him. However, his linking of Jersey's reputation to the child abuse investigation was, we are satisfied, a serious political error, rather than a considered attempt to influence the course of the Police investigation.

10.292 John Edmonds, a senior member of the LOD, described the atmosphere in Jersey at the time of his arrival from England in June 2008:

"... quite a febrile atmosphere in Jersey, that the issue of the historic child abuse investigation was all pervading, all consuming and it was quite clear that in terms of the history of Jersey this was quite a major incident ... there was already significant media attention ... in the national media ... and also in the international media. It had been on Newsnight, there had been a Law in Action programme: Jersey was very much in the spotlight".²²²

Findings: actions of agencies of government and politicians

10.293 We are required, under Term of Reference 9, to review the actions of the agencies of government and politicians, particularly when concerns about child abuse came to light. We are also required under Term of Reference 13 to consider whether the process under which the SOJP submitted files to prosecutors was subject to any political or other interference. Clearly, any interference with the underlying investigation into child abuse would have an effect on the ability of the Police to submit files to prosecutors.

10.294 It is clear that there was disquiet among Jersey's politicians, up to and including the Chief Minister, Frank Walker, about the effect of the publicity being generated by Operation Rectangle. Nevertheless, we find that Frank Walker and the majority of politicians accepted the strong advice of the

²²¹ Day 125/99

²²² Day 126/21–22

Attorney General and did not seek actively to interfere. We find that Ministers in general recognised that, however unpalatable the outcome of Operation Rectangle might prove to be, the Police investigation had to be permitted to run its course unhindered. The alternative, leading to public accusations of cover-up, would have been far worse for Jersey's reputation, and we find that politicians recognised that fact.

10.295 Nevertheless, we accept that CO Graham Power would have felt under pressure from the public opposition voiced by Senator Ben Shenton and others. In addition, he was placed under some pressure by Frank Walker and Bill Ogley, who told the Inquiry that they raised questions with him about Police media handling, and also criticised the conduct of DCO Lenny Harper. The questions raised by Frank Walker and Bill Ogley undoubtedly reflected genuine concerns, and from their point of view had a legitimate basis, but the effect of constant questioning was inevitably to lead Graham Power to perceive that he did not in reality enjoy the political support that was being asserted in public.

Relationship between Operation Rectangle team and the Law Officers

10.296 There clearly were difficulties in the in the relationship between the SOJP and the LOD during the course of Operation Rectangle. The issue for us is the extent to which, if at all, the difficulties had an impact on the investigation and prosecution of cases of the abuse of children in care.

10.297 Graham Power told the Inquiry that a number of issues, in his opinion, impeded the development of a good working relationship between the Police investigation team and the Law Officers. We have summarised the principal issues below.

10.298 He said that there were perception issues arising from the fact that Jersey does not have an equivalent to England and Wales' independent Crown Prosecution Service. In Operation Rectangle, decisions as to the prosecution of government staff lay in the hands, he said, of those perceived to be the

“government’s lawyers”. This, he said, undermined the confidence in the investigation of some victims, witnesses and even Police officers.²²³

10.299 In his oral evidence he said that he was aware of the procedures put in place by the Attorney General for the review of Operation Rectangle cases, namely that decisions in the first instance would be made by Crown Advocates and cases referred to the Attorney General only if the Crown Advocates advised against prosecution. However, he said that he perceived the Attorney General and Crown Advocates as part of the same hierarchy. He emphasised that his principal concern was one of public perception. If the public thought that the government’s lawyers were making decisions as to whether government employees should be prosecuted, they would not have faith in the system, even if the decisions were correct.²²⁴

10.300 Graham Power also said that another issue was a confusion as to the chain of command within the LOD and as to who was in a position to provide advice and decisions. He said that there were issues around the availability of Crown Advocate Steven Baker, who had been appointed to prosecute any Operation Rectangle cases, and said that there had been poor handling by Simon Thomas, the London barrister appointed by the Law Officers to assist the Police, of the initial relationship with the Police team. There had also been a specific disagreement between the Police and Simon Thomas as to the proposed prosecution of two individuals, WN279 and WN281.

10.301 Graham Power recalled there being a disagreement between him and the Attorney General over Graham Power’s view that the way to deal with the public perception issue was for the Attorney General to appoint a high profile, specialist and independent “special prosecutor” to work with the Police. The Inquiry has seen a note dated 25 February 2008, made by the Attorney General, which recorded William Bailhache QC asking Graham Power whether he needed a lawyer to be attached to the investigation at that stage, and Graham Power replying that he would consult Lenny Harper. Graham Power told the Inquiry that he did not recall the offer being made, but did remember speaking to Lenny Harper and then asking the Attorney

²²³ WS000536/97

²²⁴ Day 107/133–4

General to provide a full-time dedicated lawyer, ideally from the UK, to assist the investigation.²²⁵

10.302 The Inquiry has seen an email written by Graham Power on 17 April 2008 to the Attorney General, accepting the offer of a lawyer with a specialist background in child abuse work to assist the Police. He said that the investigation had reached a point at which full time legal support was appropriate, and suggested that the lawyer should be accommodated at Police headquarters to facilitate meetings and consultations.²²⁶ William Bailhache QC replied the following day, confirming the immediate appointment of Simon Thomas.

10.303 However, we are aware that the Simon Thomas did not work full time on Operation Rectangle and the fact that he was not always available when needed was a source of frustration to the Police. Further, he did not have the expertise in the prosecution of child abuse cases for which the Police had hoped. The appointment was not, therefore, the success for which both the Police and the Attorney General had hoped.

10.304 William Bailhache QC, then Attorney General, was concerned by the SOJP's media policy and met with Graham Power and Lenny Harper on 13 May 2008. His particular concern at that point was a recent article in the UK national press in which Lenny Harper had been quoted as saying that he had no evidence that the Attorney General was wilfully obstructing the investigation, although there had been some misunderstandings. Graham Harper was also quoted as saying that he had not accepted William Bailhache's advice to have a lawyer within the Police inquiry team office itself, because to have done so would be highly irregular. The note that William Bailhache made of the meeting makes clear that this newspaper article was the focus, at that time, of his dissatisfaction with the Police media strategy. The note records:

"LH denied he was briefing against me. He cdn't say I was not obstructing his enquiry because he had no evidence that this was so. I asked him if he believed I was. He said he did not.

²²⁵ WD008198/5, Day 107/92-93

²²⁶ WD007534/16

He agrees it would have been better to say that it was unusual, rather than irregular, to have lawyers in Police HQ ...

GP said given lack of trust, perhaps I shd make statement. I said I was considering it.

I said to LH if he had a problem, he shd tell me. He sd he wd but I am not confident that he meant it.²²⁷

10.305 William Bailhache, in his witness statement to the Inquiry, said that, at that meeting:

"I made it clear to both of them that the way that the investigation was being managed in the press was a major cause for concern. It was liable to impact on the administration of criminal justice on the island and I advised both of them that whilst it was not my business how the Police ran their investigation, it became my business if it was impinging on the prosecution process. I understood the need for a media policy that encouraged complainants to come forward. I'm not critical of that at all ... While it may have been sensible to use the media to combat any perception and encourage complainants to come forward, it was wrong to create an environment where there was a real risk of obtaining incorrect or false complaints or which would otherwise fuel abuse of process arguments."²²⁸

10.306 This element of the discussion is not contained within William Bailhache's detailed note of the meeting. While it is undoubtedly true that William Bailhache raised the issue of the Police's media policy with Graham Power on a number of occasions, it seems to us likely that at this particular meeting he concentrated principally on the criticisms made of him in the recent article, and on the related issue of whether he should distance himself from the prosecutions, rather than on wider issues.

10.307 William Bailhache QC acknowledged that there was a public perception that he was obstructing Operation Rectangle. Matters became very difficult after the Law Officers, advised by Simon Thomas, decided not to prosecute two individuals (WN279 and WN281). Lenny Harper issued an intemperate press release, criticising that decision. At a meeting on 25 June 2008 to discuss the decision not to prosecute the two individuals, the Attorney General demanded an explanation of the Police media policy and the reasons for issuing a press statement about the case. The record of the meeting states:

²²⁷ WD008198/6

²²⁸ WS000701/40

“The Police know that there are already allegations that the Attorney General is obstructing the investigation and this type of release serves only to add fuel to such allegations.”²²⁹

10.308 When asked in evidence to comment on this note, Graham Power said that the Attorney General was not obstructing the investigation but that he was not proactive in promoting it. Graham Power said that, in the UK, he had seen senior Crown Prosecutors go to the media and encourage victims and witnesses to come forward. He said that nothing similar was done by the prosecuting authorities during Operation Rectangle. Graham Power also said that no serious attempt was made by William Bailhache QC to address perception issues, and nothing was done to strengthen the belief of the public in the integrity of the justice system.²³⁰

10.309 Graham Power acknowledged that there had been difficulties on the Police side. Lenny Harper had become the public face of the investigation. He was approaching retirement; Graham Power was able to tell the Attorney General, in a telephone call on 26 June 2008, that Lenny Harper’s replacement had already been appointed and that there would be a new senior investigating team within a few weeks. In that call, the Attorney General said that work needed to be done to improve the relationship between the Police and lawyers, and Graham Power said that it would be helpful to have a clear chain of command on the Law Officers’ side. Both agreed on the need to work on the public’s lack of trust of the legal system. The call appears to have been a constructive one on both sides.

Operation Rectangle under David Warcup and Michael Gradwell

10.310 Graham Power told the Inquiry that to have removed Lenny Harper for any reason other than his planned retirement would have been “*world news*.” He nevertheless opposed any suggestion that Lenny Harper should stay beyond his retirement date to continue with Operation Rectangle:

“I think given the difficulties we had had something of a relaunch with new faces was appropriate and I include myself in that. I thought that I could see the arguments for saying we ought to create a forward

²²⁹ WD008199

²³⁰ Day 107/146

*momentum with different people and lose the baggage, if you like, of all the difficulties that had gone before.*²³¹

10.311 On 31 July 2008, Lenny Harper gave an interview to the BBC in which he stated:

*“No matter how certain politicians in Jersey would like to attack us and no matter how they would like that to go away, the fact remains that we have found the remains of at least five children there (at Haut de la Garenne) and attempts have been made to burn these remains, attempts have been made to bury and hide them, so we can’t get away from that, but at the end of the day there just might not be the evidence there to mount a homicide investigation.”*²³²

10.312 David Warcup, formerly Deputy Chief Constable, Northumbria Police, was appointed in the summer of 2008 to the post of DCO of the SOJP. He made clear the need for a suitably experienced officer to be appointed to the role of SIO. Michael Gradwell, seconded from Lancashire Constabulary, took up that post on 8 September 2008.

10.313 There is uncontradicted evidence, from both Police officers and Law Officers, that the working relationship between the Law Officers’ Department and Mr Warcup and Mr Gradwell was far better than the Law Officers’ Department’s relationship with Mr Harper.

10.314 David Warcup described the relationship between the Police and media at the time of his arrival as *“toxic ... disruptive, it was unhelpful; it was challenging”*. He was particularly critical of the willingness of some sections of the media to publish leaked material.²³³

10.315 DI Alison Fossey said that *“Gradwell and Warcup were anxious to set the record straight”*.²³⁴

10.316 Graham Power told the Inquiry that he recognised that:

“there was absolutely no dispute over the need to do some clarification around the history of the media reporting”.²³⁵

²³¹ Day 107/162; WD00536/121

²³² Day 110/24

²³³ Day 120/48

²³⁴ WS000687/41

²³⁵ Day 107/165

10.317 David Warcup told the Inquiry that the situation had been sensationalised by media reporting; there was a public perception that children might have been murdered and he needed to know the true position. He realised that leaked information indicating that the Police no longer thought that there had been murders had led to a negative reaction from members of the JCLA; there was a perception that the Police could not be trusted to investigate child abuse. He met representatives of the JCLA, seeking to allay concerns that matters would not be properly investigated or would be covered up. He encouraged witnesses to come forward and believed that a multi-agency approach was needed to establish the confidence of potential witnesses.²³⁶

10.318 He also gave an order that there would be no further press releases without his consent.²³⁷

10.319 Graham Power emphasised in his witness statement that he was not involved in the operational side of Operation Rectangle, save for the short period of the handover between Lenny Harper and David Warcup, and did not know all of its details. It was not his role to be so involved; his job was to run a Police force.²³⁸ He told the Inquiry that Operation Rectangle was one of a number of major criminal investigations that were ongoing at the time. Further, he was not a detective by background. He recognised that he *“did not have either the training or the experience to pass judgment on the operational details of a major crime investigation”*.²³⁹

10.320 He said that, at that time, he was involved in *“succession planning”* and, realising that he was losing control of Operation Rectangle, he told David Warcup that he would not stand in his way if David Warcup wanted a press conference.²⁴⁰

²³⁶ Day 120/26

²³⁷ Day 120/17

²³⁸ WS00053671/75–76

²³⁹ WS000536/77

²⁴⁰ Day 107/171

10.321 David Warcup, on the other hand, thought that Graham Power was distancing himself from decisions that had to be made and he felt that Graham Power should have provided stronger leadership.²⁴¹

10.322 By October 2008, there had been media reporting of the intention of the lawyers representing an alleged child abuser, Gordon Wateridge, to argue that press reporting of Operation Rectangle had made it impossible for Mr Wateridge to have a fair trial.²⁴² David Warcup told the Inquiry that his strategy was to hold a press conference at which the Police would clarify matters.²⁴³

10.323 The date of the press briefing was set, mindful of the timetable for the joint abuse of process applications made on behalf of the defendants Wateridge, Donnelly and Aubin. All of them faced charges of sexual offending against children. The lawyers applied to stay the proceedings against them on the basis they could not have fair trials because of the publicity concerning Operation Rectangle.

10.324 David Warcup said, in respect of the conduct of Operation Rectangle during his tenure:

“The intention was to ensure that every complaint and allegation was investigated to the point of prosecution or no further action.”²⁴⁴

10.325 When asked, during his evidence, whether that aim had been achieved, David Warcup replied:

“I think we did. I think we achieved that. We went a stage further as well ... we never closed our mind to the fact that there could be further evidence out there ... we looked at all matters in relation to outstanding missing persons ... matters in relation to murders that were committed within the jurisdiction, the potential for any serial offending ... and it did not happen ... we did not find this ... that just in case there were any previous incidents or serious crimes that had been committed in the island which we should have joined up with the current inquiry. So we attempted to do that ...”²⁴⁵

²⁴¹ Day 120/40

²⁴² WS000694/20

²⁴³ Day 120/54–58

²⁴⁴ WS000 0694/40/134

²⁴⁵ Day 120/150

10.326 He added:

“ ... There wasn't any pressure not to prosecute or not to pursue with rigour any particular individuals, whether they were States employees, former States employees or anybody else for that matter.”²⁴⁶

Findings: the management of Operation Rectangle

10.327 It is clear that the relationship between the Operation Rectangle Police team and the Law Officers was poor almost from the outset, largely because of the lack of trust on the part of the Police in the ability of the Law Officers to make decisions that would be perceived by the public as fair and independent. Relations worsened substantially from February 2008, with the increasingly hysterical and inaccurate media reporting of the progress of the Police investigation. A crisis in the relationship occurred in July 2008, with the issuing by Lenny Harper of a press release, criticising the decision not to prosecute WN279 and WN281.

10.328 The mutual distrust in the working relationship undoubtedly caused problems in an investigation that was difficult in any event. The Police were investigating allegations of past abuse, which in some cases were alleged to have occurred many years in the past. Evidence of such abuse is, by very reason of the passage of time, often extremely difficult to obtain. Once evidence is obtained, prosecutors have to exercise fine judgment in order to determine whether prosecution is justified. A fractious working relationship between Police and lawyers could only have made the tasks for each side more fraught with difficulty.

10.329 We have concluded, however, that the essential policing work and the process of giving legal advice and making prosecuting decisions were not significantly affected by the disputes.

10.330 The Operation Rectangle Police team was staffed by experienced officers, with DI Fossey having a leading role as Deputy SIO. We have seen no evidence to indicate that the evidence-gathering role of the Police was hindered to any material extent by the bad relationship between lawyers and the Police.

²⁴⁶ Day 120/155

- 10.331 Equally, as we discuss in more detail in Chapter 11, the Crown Advocates made conscientious decisions and gave proper advice. To the limited extent that the Attorney General was involved in decision-making, he acted with integrity. His notes of his discussions with Graham Power and Lenny Harper certainly reveal the tensions between the lawyers and the Police, but also reflect a willingness on his part and that of Graham Power to resolve difficulties if possible. We have no reason to believe that any decision made or advice given was improperly influenced in any way by the unhappy nature of the working relationship with the Police.
- 10.332 The arrival of David Warcup and Michael Gradwell clearly improved the working atmosphere, but we have no reason to believe that the integrity of the work of either Police or lawyers was affected by the change in Police leadership of Operation Rectangle.

The suspension of Graham Power

- 10.333 In November 2008, Graham Power was suspended by the then Home Affairs Minister, Andrew Lewis. The reasons given, in essence, related to alleged failings in the management of Operation Rectangle.
- 10.334 Operational policing decisions are not a matter for this Inquiry save to the extent that they had an effect on the Police response to allegations of the abuse of children in care. As counsel to the Inquiry submitted, opinions given after the event are of limited assistance. The central question we have to address is “What was the reason for Mr Power’s suspension?” If it was motivated by a desire to close down Operational Rectangle and promote a cover-up then it does not matter that there might incidentally have been legitimate reasons for suspending him. If on the other hand his suspension was not motivated by any such desire, it does not matter whether his suspension was in fact illegitimate (for example, due to procedural failings), and any effect his suspension had on the Operational Rectangle investigation would have to be regarded as an inevitable but legitimate consequence. The reason for our consideration of this issue is that it falls squarely within the requirement for us to investigate, under Term of Reference 9, the actions of the agencies of the government and politicians

when concerns came to light about child abuse and establish what, if any, lessons are to be learned. Term of Reference 11, which requires us to consider the actions taken by entities, including the Police, to reports of child abuse, is also relevant.

10.335 In August 2008, David Warcup asked the Metropolitan Police to carry out a review of Operation Rectangle. The purpose of the review was to assist those involved in the investigation by identifying matters that needed improvement and tasks that should be undertaken.²⁴⁷

10.336 Michael Gradwell said that both he and David Warcup were concerned that Graham Power would not engage in discussions about the issues that they were raising. Michael Gradwell wrote a report to his line manager David Warcup to record his concerns; that report was made available to the Inquiry.²⁴⁸

10.337 He set out a number of criticisms concerning the conduct of Operation Rectangle, including matters in respect of the day-to-day running of the investigation and media handling. He expressed the strong view that misrepresentations in the media must be corrected publicly, first because that was the right thing to do and secondly as a pre-emptive response to the inevitable abuse of process arguments from defendants.

10.338 Both David Warcup and Michael Gradwell were dismayed by Graham Power's disapproval of their plan to hold a press conference. Graham Power considered that the record should be put straight in a more "low-key" way.²⁴⁹

10.339 David Warcup reported his concerns to Bill Ogley, Chief Executive and also met with Assistant Home Affairs Minister, Andrew Lewis. Andrew Lewis was concerned with the impact that "*sensationalist*" reporting had had on the SOJP and on the reputation of Jersey more generally.²⁵⁰

²⁴⁷ Day 120/102; WD 008713/41

²⁴⁸ WD008514/20

²⁴⁹ Day 120/54–58

²⁵⁰ Day 120/67

- 10.340 David Warcup hoped that Bill Ogley and Andrew Lewis would be able to persuade Graham Power to help deal with Lenny Harper who, having left the SOJP, was still giving media briefings.²⁵¹
- 10.341 Bill Ogley told the Inquiry that his major concern was that Graham Power, as CO, could stop the press conference from going ahead. He said that a plan was created to deliver the press conference without confronting Graham Power. Steps were also taken to ensure that Graham Power could be suspended on the day of the press conference “*if necessary*”.²⁵²
- 10.342 Bill Ogley took advice from the Solicitor General on the disciplinary process. The advice provided by the Solicitor General, Timothy Le Cocq QC to Bill Ogley and to Frank Walker, Chief Minister, was given only in connection with the process itself and not the substance of the decision.²⁵³
- 10.343 The Minister for Home Affairs, Senator Wendy Kinnard, due to a conflict of interest, had handed responsibility for matters relating to Operation Rectangle to the Deputy Minister Andrew Lewis.
- 10.344 Bill Ogley told the Inquiry that David Warcup briefed him on the oral reports that he received from the Metropolitan Police reviewer. An interim report was expected, and David Warcup expected that report to be critical of Graham Power.²⁵⁴
- 10.345 On 18 October 2008, Senator Wendy Kinnard met her deputy Minister, Andrew Lewis, at her home. Her husband, Christopher Harris, a lawyer, was present for some of the meeting and shortly afterwards drafted a handwritten note of the main points. According to Senator Wendy Kinnard, Andrew Lewis told her of steps being taken to remove or discipline Graham Power. He told her about “*extracts*” from a Metropolitan Police report and said “*for God’s sake don’t tell Frank what I’m telling you*”. She advised Andrew Lewis not to do anything until he had full information. She was reassured when he told her that he would stand up to any pressure to invoke suspension. Senator Wendy Kinnard had no further discussions with Andrew Lewis about the

²⁵¹ Day 120/72

²⁵² Day 129/62

²⁵³ WD009129; WD009097

²⁵⁴ Day 129/72

proposed suspension of Graham Power.²⁵⁵ On 20 October 2008, she resigned as Minister for Home Affairs. She was succeeded by Andrew Lewis.

10.346 Andrew Lewis denied that there were any discussions about Graham Power's suspension and asserted that Christopher Harris's note was fabricated. He claimed to have known nothing at all about the proposed suspension until 11 November 2008, despite the fact that, as Home Affairs Minister, he would have been the only person with the power to suspend the CO.²⁵⁶ Both Senator Wendy Kinnard and Christopher Harris gave evidence to the Inquiry, attesting to the accuracy of the note. We accept the account that they gave to us about their meeting with Andrew Lewis.

10.347 Dr Brian Napier QC, an expert in employment law, subsequently investigated Graham Power's suspension. Andrew Lewis told Dr Brian Napier that, between 22 and 28 October, he had discussed with Mr Crich (Director of HR) and Bill Ogley the possibility of Graham Power being suspended. Andrew Lewis said in evidence to the Inquiry that he may have got "muddled" when talking to Dr Brian Napier. However, we find that Andrew Lewis was not muddled. His account to Dr Brian Napier provides confirmation of the accuracy of the evidence of Senator Wendy Kinnard and Christopher Harris about their meeting with Andrew Lewis; he clearly knew well before 11 November 2008 of the plan to suspend Graham Power.

10.348 On 6 November 2008, Timothy Le Cocq QC, Solicitor General, advised that the Ministers did have the power to suspend the CO while that Officer was absent from the island. He added:

"Whether it would be wise to do so is, of course, a different question, the answer to which will depend on the content of the [Metropolitan Police] report."²⁵⁷

10.349 The Solicitor General also advised that Graham Power should be shown that report and invited to comment on the basis that the Minister regarded it as serious and was considering suspension.

²⁵⁵ Day 135/166–180

²⁵⁶ Day 136/27–42

²⁵⁷ Day 132/95

10.350 The Metropolitan Police had not delivered their report by this point; they were waiting to interview Lenny Harper. David Warcup asked for an interim report which he received on 10 November 2008.²⁵⁸

10.351 On 11 November 2008, the Solicitor General advised on the content of a letter of suspension and noted:

*“I reiterate my advice that if this action is being considered in advance of the full report being available from the Metropolitan Police, there must be sufficient objective evidence available to justify what is proposed. I would urge that particular caution be exercised to check there are no provisos or caveats to any of the conclusions reached upon which reliance is to be placed and that the reasons for action are robust.”*²⁵⁹

10.352 David Warcup did not provide a copy of the report to Bill Ogleby but set out in a letter his criticisms of the way in which Operation Rectangle had been conducted.²⁶⁰

10.353 In his letter dated 10 November 2008, David Warcup made extensive criticisms of the management of Operation Rectangle under Lenny Harper. In the concluding part of the letter he wrote:

“the interim findings of the review by the Metropolitan Police fully support my previous comments and the opinions which I have expressed herein”.

10.354 David Warcup was asked, in his oral evidence, about the accuracy of that last sentence and accepted that it gave a misleading impression as his comments and opinions in the letter went “*far beyond those expressed in the interim report*”. However, he said that he made “*a very clear distinction about what my views are and what the Met findings are*”.²⁶¹

10.355 David Warcup told the Inquiry that he had not known in advance that Graham Power was to be suspended.²⁶²

²⁵⁸ Day 120/107

²⁵⁹ WD009097

²⁶⁰ Day 120/115

²⁶¹ Day 120/131

²⁶² Day 120/143

10.356 Frank Walker (Chief Minister) said that David Warcup's letter was so damning in itself that it would have led to the suspension of Graham Power, with or without reference to the Metropolitan Police review.²⁶³

10.357 In an email dated 11 November 2008, the Attorney General, advising on the content of a proposed press release, wrote:

*"If you get to the stage of suspending Graham Power then of course **some** statement will be necessary, but surely you will need to have the full Met review in your hands for that purpose and allow a little time for it to be assimilated."*²⁶⁴

10.358 Frank Walker said that William Bailhache QC's comment was based on the incorrect premise that the Metropolitan Police report was the reason for suspension; it was, he said, all the other evidence in David Warcup's letter that was the reason for the suspension.²⁶⁵

10.359 According to Andrew Lewis, he first knew on 11 November 2008 of any possibility of Graham Power's suspension when Bill Ogley told him that concerns had been expressed by David Warcup about Operation Rectangle. Bill Ogley wanted to discuss "a way forward", and Andrew Lewis recognised at the time that suspension was a very real possibility.²⁶⁶

10.360 Andrew Lewis admitted to us that he knew on 11 November 2008 that the Metropolitan Police had said that the review was not to be used for disciplinary purposes. He saw nothing wrong, however, with using extracts or observations from it when deciding whether to suspend Graham Power.²⁶⁷

10.361 He said that he could not recall whether he had been aware of the Solicitor General's advice that he should ensure, before relying on the report, that there were no caveats in it.²⁶⁸

10.362 On 11 November 2008, following the briefing to politicians about the press conference, a further meeting was held. It was attended by Frank Walker,

²⁶³ Day 124/148

²⁶⁴ WD008945; in oral evidence William Bailhache QC emphasised that it was the SG, and not he, who had been asked to advise on the procedure for suspension

²⁶⁵ Day 124/54–55

²⁶⁶ Day 136/45

²⁶⁷ Day 136/53

²⁶⁸ Day 136/59

Bill Ogley, Andrew Lewis and the Attorney General.²⁶⁹ David Warcup did not attend the meeting.

10.363 The Attorney General, William Bailhache QC, told the Inquiry that he understood at that meeting that the decision to suspend Graham Power had already been taken. Bill Ogley believed that the meeting was called for the purpose of deciding whether to proceed with the suspension and, if so, how to do it.²⁷⁰

10.364 Bill Ogley said that it was decided that Graham Power should be given time to consider the information in the suspension letter and then have an opportunity to respond before the Minister made a final decision.²⁷¹

10.365 Graham Power was told, on the evening of 11 November 2008, that Bill Ogley and Andrew Lewis wanted to meet him the following morning to discuss “*some concerns that had been raised about Operation Rectangle with reference to the review that had just been completed*”. He was not told that suspension was being considered. Andrew Lewis was asked in evidence whether it would have been fair to give Graham Power the chance to consider matters and to consult a lawyer or bring a colleague. He replied “*he had all that opportunity afterwards*” and stated that this was not dismissal but suspension.²⁷²

10.366 Graham Power was suspended from his post on 12 November 2008, the same day as the press conference. Graham Power said in evidence that there was one crucial inaccuracy in the record of his meeting with Bill Ogley and Andrew Lewis. The note of that meeting stated that he had been invited to take an hour “*to consider matters*”. He said that he was given an hour “*to consider his position*” and that there was no doubt that he was being invited to resign as an alternative to suspension.²⁷³

10.367 On 10 December 2008, Andrew Lewis took part in an “in camera” debate in the States concerning Graham Power’s suspension. In that debate he said

²⁶⁹ Day 129/83

²⁷⁰ Day 129/82

²⁷¹ Day 129/84

²⁷² Day 136/65

²⁷³ Day 107/177; WD007216

that an investigation had been carried out by the Metropolitan Police and that he was presented with a preliminary report:

“When I saw the preliminary report I was astounded. So much so that my actions, I believe, are fully justified. If the preliminary report is that damning, Lord knows what the main report will reveal.”

10.368 In answer to the question posed during the debate – *“Will the report be published when it is completed?”* – Andrew Lewis replied:

“No, it will not, because the report of the Metropolitan Police contains Crown evidence that will be used in the prosecutions that are currently underway and potential prosecutions that may come from this investigation.”

10.369 At this time, Andrew Lewis had not seen the Metropolitan Police report. In evidence to this Inquiry Andrew Lewis said that he had made an error during the debate in referring to the Metropolitan Police report when he meant to refer to David Warcup’s letter. He did not accept that anyone had been misled and said that those present on the day understood that he had been referring to David Warcup’s report. He was given the opportunity to identify passages in the Hansard report of proceedings that would lead anyone present (or reading the debate) to understand that he was referring to David Warcup’s letter. He was unable to do so; the report in Hansard contains no references whatsoever to David Warcup’s letter.²⁷⁴

Findings: the suspension of Graham Power

10.370 Dr Brian Napier QC presented a report to the States on 15 November 2010. In it he concluded that the decision to suspend Graham Power was procedurally flawed. Frank Walker told the Inquiry that he accepted Dr Brian Napier QC’s view; the circumstances for immediate suspension did not exist and no consideration was given to alternatives such as special leave.²⁷⁵ However, Frank Walker maintained that he had acted on legal advice that immediate suspension was necessary pending investigation into Graham Power’s alleged failings. He said:

²⁷⁴ Day 138/56ff Deputy Mike Higgins was instrumental in obtaining States permission for the Inquiry to see the Hansard report of those proceedings

²⁷⁵ Day 124/61

“Was there a conspiracy, as has been alleged by previous witnesses, not least Mr Power himself, was there a conspiracy to remove him from office and the answer is categorically ‘No’. He was suspended because he totally failed to take any meaningful control of Operation Rectangle and his investigating officer.”²⁷⁶

10.371 Dr Brian Napier QC found no evidence of a conspiracy to oust Graham Power for some improper purpose.

10.372 However, Dr Brian Napier QC did not have the advantage that we have had of calling a substantial number of witnesses to give evidence on oath; nor did he have all of the material that we have received. He did not know (and could not know) that Andrew Lewis would give a different account to us from the one that he gave to Dr Brian Napier QC. In these circumstances, while we do not question Dr Brian Napier QC’s findings on procedural irregularities, we do not believe that we should place great weight on his findings concerning the existence or absence of a conspiracy.

10.373 We do have to record our disquiet at the manner in which the suspension was handled and in respect of some of the evidence given to us about it. We refer, in particular, to the following issues:

- Graham Power was suspended with no notice in respect of alleged past failings, when there was no suggestion that those past failings could have an effect on his ability in future to carry out his duties;
- Those responsible for his suspension did not heed the advice of the Solicitor General or Attorney General about the risks of reliance on the Metropolitan Police interim report, the need to show any report to Graham Power and permit him to comment on it, or the wisdom of awaiting the full Metropolitan Police report before taking action;
- David Warcup exaggerated to Bill Ogleby the extent to which his own concerns were supported by the Metropolitan Police interim report;
- Andrew Lewis used the interim report for disciplinary purposes, knowing that this was an impermissible use;
- William Bailhache QC, as Attorney General, understood that the decision had already been made by the evening of 11 November 2008 that Graham

²⁷⁶ Day 124/65

Power was to be suspended. His evidence to us on this point was at odds with the evidence of Bill Ogley. We prefer the evidence of William Bailhache QC;

- It is clear to us that, when Graham Power attended the meeting on 12 November 2008, his suspension was inevitable. We accept Graham Power's evidence that he was given time "to consider his position" – in other words, to resign as an alternative to suspension;
- Andrew Lewis lied to the States Assembly about the Metropolitan Police report, pretending that he had had sight of it when he had not;
- Andrew Lewis told Dr Brian Napier QC that he had discussed the suspension of Graham Power in October 2008, while telling us that he knew nothing about it until 11 November 2008;
- Andrew Lewis denied that he had discussed with Wendy Kinnard and Christopher Harris the possibility that Graham Power would be suspended. We do not accept his evidence in this respect.

10.374 We can readily see why these acts have given rise to public suspicion that all or some of those involved were acting improperly and that they were motivated by a wish to discredit or close down investigations into child abuse. However, we have to examine with care the evidence that we have, and to be aware both of its limitations, and of the limited remit that we have within our Terms of Reference.

10.375 We recognise that there were, at the time of Graham Power's suspension, genuine reasons for concern about some aspects of the past conduct of Operation Rectangle (and, in particular, the media handling) and that there may well have been reasons to investigate whether (a) there were failings in the conduct of the operation; and (b) if there were, the extent to which Graham Power was responsible for them.

10.376 We cannot be sure why Frank Walker, Bill Ogley and Andrew Lewis acted as they did, or why Andrew Lewis lied both to the States and to us.

10.377 Frank Walker described Andrew Lewis as an inexperienced politician, and even appointed a more senior politician to mentor him in his Home Affairs

role.²⁷⁷ While Frank Walker told us that, nevertheless, he did not think that Andrew Lewis would have been influenced by his view as Chief Minister, we believe that such influence was not only inevitable but would have been recognised by all involved, including Frank Walker and Bill Ogle.

10.378 There is no evidence that Andrew Lewis or anyone else was involved in an attempt to derail Operation Rectangle or otherwise cover up child abuse by participating in the orchestrated removal of Graham Power. It was clear that Operation Rectangle was going to continue with or without Graham Power's presence; he had never, in any event, had a significant operational role in the investigation and, following the arrival of David Warcup, had been content to leave the running of the investigation to David Warcup and Michael Gradwell. Neither of them came from Jersey, and we have no reason to believe that they would have taken the opportunity of Graham Power's suspension to close down the investigation or to take any other steps that they would not have taken had he remained in post. Operation Rectangle did not conclude until DI Alison Fossey and her colleagues were confident they had accounted for every child who had been resident at HDLG.

10.379 Our interest in Operation Rectangle in this context is in whether any decisions made by Police officers, lawyers, civil servants or politicians were motivated by a desire to cover up child abuse, or to interfere in any other way with a Police investigation into, or prosecution of, alleged child abusers. Nothing that we have seen suggests that the suspension of Graham Power was motivated by any wish to interfere with Operation Rectangle or to cover up abuse. Since our remit is limited, it would be wrong for us to speculate as to the reasons for which those involved in Graham Power's suspension acted as they did.

The issue of corruption

10.380 Both Lenny Harper and Graham Power believed that corruption was endemic in policing in Jersey. That belief, whether right or wrong, informed their thinking and their approach to Operation Rectangle. We find that their

²⁷⁷ Day 124/50

belief in the existence of local corruption made them wary when dealing with the politicians, lawyers and other Police officers with whom they were working. Graham Power, in evidence to us and during the time of Operation Rectangle, referred repeatedly of the lack of trust held by the public in establishment figures, and wrote of the perception that he, the Attorney General and the Chief Executive were all members of the same “senior club”.²⁷⁸ We have seen no evidence of corruption that in fact affected Operation Rectangle or the investigation into child abuse.

10.381 Michael Gradwell told the Inquiry that in all of his discussions with the Law Officers and legal teams about proposed prosecutions, the lawyers would form a view of the case but were always open to discussion. He had no concern that they were acting anything other than professionally.²⁷⁹

10.382 Neither Lenny Harper nor Graham Power has suggested that the LOD or the Attorney General did anything in relation to the investigation that suggested an intent to cover up child abuse.

10.383 Lenny Harper told the Inquiry that he found there to be many instances of Police corruption within the SOJP. Graham Power said that at the time of Lenny Harper’s appointment the SOJP had a history of inappropriate, illegal and unprofessional behaviour by some officers and that the leaking of information to criminals was a problem.²⁸⁰

10.384 The LOD submits that both officers gave evidence of struggles they faced trying to tackle the issue of corruption. However neither can point to any specific evidence in relation to Operation Rectangle. Furthermore neither did anything to investigate their concerns.

10.385 The Inquiry received some evidence about allegedly corrupt activities prior to Operation Rectangle.²⁸¹ These allegations are however unrelated to our Terms of Reference and we therefore make no findings in that regard.

²⁷⁸ WD007070, p.331

²⁷⁹ Day 111/108

²⁸⁰ Day 121/16; Day 106/146

²⁸¹ Day 121/28

10.386 Whether there was at any time a problem with Police corruption is not within our Terms of Reference save insofar as it has any relevance to the investigation of allegations of abuse of children in care. Counsel to the Inquiry submitted that what is crucial is not whether there was in fact endemic corruption but whether Graham Power and Lenny Harper believed that there was. The Panel considers that Lenny Harper and Graham Power did hold that belief, and that it informed their decision making during Operation Rectangle. Their belief contributed to the difficulties in the working relationships between the SOJP, prosecuting lawyers and politicians.