

**THE THREE REPORTS IN RELATION TO THE MANAGEMENT
OF THE ASPECTS OF THE HISTORICAL ABUSE ENQUIRY WHICH
RELATE TO HAUT DE LA GARENNE**

A) INTRODUCING THE THREE REPORTS

The first two reports were produced by the Chief Constable of Wiltshire for the purposes of an investigation into the responsibility of the Chief Officer of Police, Mr. Graham Power, for any failures in relation to the management of the part of the Historical Abuse Enquiry which related to Haut de la Garenne, to which I shall refer as “the Haut de la Garenne investigation”. The Wiltshire Police were nominated by Her Majesty’s Inspectorate of Constabulary and I am very grateful to them for the excellent detail of their work.

The third report was produced by BDO Alto, a firm of accountants, in relation to the management of financial aspects in relation to the Haut de la Garenne investigation. This report does not look specifically at the role of Mr. Power and, in fact, has a wider remit because it looks at the role of the Home Affairs Department as well as the States of Jersey Police. I am also very grateful to BDO Alto for their work.

All three reports appear at this time in redacted form. The main purpose of the redaction has been to remove the names of individuals, including witnesses, who are not public facing. However, the size of the Wiltshire reports is such that the redaction process could not be completed in time for this presentation and work will continue with this with a view to providing as much of the text as is properly possible.

Very misleading information has been put out to the general public to the effect that Mr. Power has not seen these reports. In relation to the Wiltshire Police reports the situation is that Mr. Power was provided with copies of the key statements of witnesses in order to enable him to produce his own detailed statement of evidence. His statements were fully taken into account by the Wiltshire Police in coming to their conclusions. Thereafter, Mr. Power was provided with a copy of each of the Wiltshire reports very soon after I received them. Mr. Power has not, to my knowledge, seen the BDO Alto report which was not produced for disciplinary purposes. I am referring to that report today because it provides much greater detail of the issues to that which is contained in the Wiltshire financial report.

B) IMPORTANT CONSIDERATIONS

Firstly, I am very aware that this further publicity in relation to the Haut de la Garenne investigation will be very painful to many former victims of abuse. I regret this but it is now necessary for the truth to come out in relation to the management failures in relation to the Haut de la Garenne investigation.

Secondly, I owe it to the general public of Jersey to put what I have learned into the public arena. Indeed, I have discontinued the disciplinary proceedings against Mr. Power about two weeks before his retirement date so that I could do so before the summer States recess and so that the members of the States Assembly could ask me questions in the States prior to that recess. I

have, personally found it to be very frustrating to not be able to share with the general public what I have known. I have not been able to before because of the existence of a confidentiality clause in the disciplinary code of Mr. Power. Although it has been obvious to me that Mr. Power and those who have been working politically on his behalf have repeatedly leaked much of his side of the story, whenever I have felt obliged to counter these leaks I have been accused of breaching the confidentiality clause.

Thirdly, I want to assure those who have been victims of abuse in the past that the strong criticisms contained in these reports of the handling of the Haut de la Garenne investigation in the past does not mean either that people have not been prosecuted who should have been or that the police will not continue to fully investigate and seek to bring to justice both past and future abusers. There are currently still a number of cases proceeding through the criminal justice system and new allegations will be properly investigated. Indeed, the Public Protection Unit of the States of Jersey Police has in recent years been greatly strengthened in numbers and experience precisely in order to achieve this.

I have great sympathy for those who have come forward to speak about incidents that occurred to them in the past which have left very deep and painful scars and I want to reassure them that their allegations will always be treated seriously by the States of Jersey Police.

Fourthly, as the Minister for Home Affairs I am very much involved in the work of the Child Policy Group and with the current work in relation to the proposed Children's Plan. The three ministers involved, supported by the Chief Minister and our other colleagues on the Council of Ministers are determined to achieve high standards for the present and future care of vulnerable children whether they are "in care" or not. We know that we must do much better in the future and that all our systems must be made properly accountable to outside scrutiny.

C) APOLOGIES

As the current Home Affairs Minister, with responsibility for the oversight of the States of Jersey Police I wish to make a number of apologies for the past failures of the senior management of the States of Jersey Police and for past ministerial failings.

Firstly, I apologise to the people of this Island for the serious reputational damage which occurred both to this Island and to its people as a direct result of serious mishandling of the press conferences and by virtue of the misleading information which was put out in these press conferences during February 2008 onwards.

Secondly, I apologise to the victims of abuse, whether at Haut de la Garenne or elsewhere for the unfair and unrealistic raising of expectations which occurred as a result of these press conferences.

Thirdly, I apologise to the people of Jersey for the ministerial failures of proper

oversight over the States of Jersey Police. There are mitigating factors in relation to this but there are still clear failures. Those failures extend to the substantial wastage of public money some of the details of which now follow.

Fourthly, I want to apologise to members of the States Assembly who were misled and continued to be misled in relation to various matters including the status of the item which was originally described as “partial remains of a child” and later as “a skull fragment”.

D) THE FINDINGS

I hope that you have already had an opportunity to look in some detail at the parts of the three reports which have already been made available to you. I am going to go directly to the Conclusions of the Wiltshire Police and then to the Legal advice in relation to suggested disciplinary charges. I will make some brief comments as I go. I begin with the 383 first Wiltshire report. This was the interim report and became the final report at a later date without any changes.

Conclusion 1

Mr. Harper should never have been appointed as the Senior Investigating Officer. This is a specialist role and neither Mr. Harper nor Mr. Power had either performed this role or received any training for this role for more than 10 years. The decision was made effectively to concentrate control of the investigation on the two Senior Officers, Messrs. Harper and Power. In fact all other members of the Senior Management Team (that is the Superintendent and the 3 Chief Inspectors) were kept away from the investigation.

Whenever there is a major investigation there must always be another more senior Police Officer who takes the supervisory role. Once the decision was wrongly made that Mr. Harper would be the Senior Investigating Officer there was only one officer who was senior to him and that was Mr. Power. Mr. Power therefore had to become the supervising officer in relation to the Haut de la Garenne investigation and this in addition to his inherent responsibilities as the Chief Officer of Police.

Conclusions 2 and 3

These relate to failures of oversight.

Conclusion 4

The first failure is insulting to States Members who were raising legitimate concerns.

The second failure includes a very sick joke. This, in my view, shows an anti-Jersey slant which is totally inappropriate for a person who was there to serve the people of Jersey.

Conclusions 5 and 12

These really belong together. It is apparent that both Mr. Power and Mr. Harper were in a position in which they did not trust any outside organisation including the prosecution service. This led to them deciding to concentrate the

leadership and management of the Haut de la Garenne investigation upon themselves alone.

Conclusion 6

It is extraordinary that very little or no thought was given to the impact of the investigation upon the general public of Jersey.

Conclusion 7

This is in Mr. Power's favour although I am bound to say that this was at the expense of very high overtime costs and very long working hours for some officers.

Conclusion 8

This is actually very important. Gold command groups have for a number of years been viewed as an essential part of any major investigation. The reasons for this are presumably the same as mentioned above, namely, the desire to exclude outside agencies and the other members of the senior management team. A properly constructed Gold Group would have given due priority to financial management issues and would have meant that decision making was less dependant upon the judgment of Mr. Harper.

Conclusions 9, 10 and 11

These are, in my view less serious although they relate to management issues and are further examples of the general managerial failures. The Independent Advisory Group appears to have been set up with a view to compensating in some way for the lack of a Gold Group and for the lack of multi-agency working. It could never have done this and although the members of the IAG deserve praise and thanks for their willingness to assist with the investigation, they were in reality set up to fail and this through no fault on their part.

Conclusion 13

This also is in favour of Mr. Power.

Conclusions 14, 15, 16 and 17

These four Conclusions all relate to failures on the part of Mr. Power to exercise oversight over the area of media strategy. The failure includes the lack of a proper media strategy and the carrying out of that strategy. It should have been obvious to a Chief Officer of Mr. Power's experience that once the media became aware that digging was taking place in the vicinity of a children's home, that wild speculation might arise from the Press. Instead on 23rd February, 2008, Mr. Harper was allowed to make a highly inflammatory and misleading statement about "partial remains of a child". Mr. Power was present at Haut de la Garenne before the statement was made and they must have discussed what was going to be said. If they did not then he is equally at fault for failing so to do.

What had happened was that a piece of material had been found which was approximately 6.3 cms by 4.4cms, that is approximately two and a half inches by one and 3 quarters inches. It has sometimes been wrongly referred to as

the size of a 50P coin but it is a lot larger than that. Unfortunately, on 23rd February 2008, this piece of what we now know to be coconut shell was wrongly identified by an anthropologist as being part of a child's skull. This was an extremely unfortunate occurrence but it was not yet a disaster. The fact is that if an investigation lacks the necessary structure, policies and safeguards, as this one did, and something goes wrong then an unfortunate occurrence can turn into a disaster. It is extremely questionable as to whether the anthropologist should have offered such an identification without proper laboratory testing of the item. It is also clear that at the time of the "find" it was not known as to whether the object had been found in a level of the building which belonged to a relevant time period. However, notwithstanding the lack of forensic corroboration and the lack of level dating, Mr. Harper chose to announce to the world's media that they had found what appears to be potential partial remains of a child. The world's media very quickly turned that into the find of a child's body.

Thereafter, Mr. Harper commenced daily briefings during which he fed huge amounts of detail about the search to an eager world media. Those briefings and the underlying failures of press strategy are very heavily criticised in this report and rightly so.

Some months after Messrs. Warcup and Gradwell had arrived on the scene, the States of Jersey Police employed an expert on police press strategy matters. After a meeting with Mr. Power in which Mr. Power would not accept what the expert was saying, the expert found his position to be untenable and resigned. However, before leaving he wrote a report which was highly critical of the strategy. That report was referred to by a Commissioner of the Royal Court in a judgment in which he was highly critical of the media strategy. The problems with the handling of the media were very serious for a number of reasons.

Firstly, no thought appears to have been given to the impact on the community in general and past victims of abuse in particular. No thought appears to have been given to the effect on the reputation of this Island and of its people and I have already apologised for that.

Secondly, the nature of the information which was drip fed to the press on a daily basis was such as to give rise to an expectation on the part of past victims of major finds and of very numerous successful prosecutions. I have already apologised today for that.

Thirdly, the provision of detailed information, some of it misleading or exaggerated, had a tendency towards contaminating the evidence of potential witnesses. If, for example, a person had come forward and said that they had been taken through a trapdoor down into a cellar where they had been assaulted in a bath then the finds of such items would tend to give credence to the complaint. However, once Mr. Harper had revealed such matters, the value of the evidence would be reduced by contamination.

Fourthly, the information which was put out and the way in which it was put

out was such that the prosecutors and the senior police officers who had taken over running the investigation were very concerned that defence lawyers might be able to successfully run the argument that Mr. Harper's press releases had led to a situation in which a fair trial of people who were accused of offences committed at Haut de la Garenne was not possible. That that was a very real possibility is shown by the judgment of the Royal Court Commissioner to which I have already referred. That risk was reduced by the actions of Messrs. Warcup and Gradwell in their press conference of 12th November 2008.

Conclusions 18a, 18b and 18c

These relate to failures on the part of Mr. Power to correct the position in relation to the "skull fragment" once the expert advice was corrected. If you look at the Chronology in Appendix 1 you will find that on 31st March 2008 an expert from LGC Forensics told the States of Jersey Police that he believed that the "skull fragment" was not bone and that this view was shared by a Doctor from the British Museum. Notwithstanding this, on 7th April 2008 the anthropologist still maintained the original view. On 8th April 2008 another expert concluded that the object came from a Victorian context. On 8th April 2008 the States of Jersey Police maintained that it was a "skull fragment" but on 9th April 2008 the anthropologist was no longer sure but Mr. Harper decided not to initiate further testing because of the dating issue. On 1st May 2008 an expert from LGC wrote to Mr. Harper to tell him that the object was not bone and almost certainly wood. On 17th May 2008 that was confirmed by an e-mail to Mr. Harper. Despite that and despite further questions in the States of Jersey the Police never come clean on this issue and never admitted that the original find was not bone let alone a "skull fragment" or "partial remains of a child".

Conclusion 19

This is again the risk of abuse of process arguments and contamination issues.

E) THE ADVICE IN RELATION TO SUGGESTED CHARGES

I am not going to spend much time on these this morning. You will see that they correspond with the criticisms contained in the Conclusions which I have commented on in some detail. The Deputy Chief Executive to the Council of Ministers in his report to me dated 15th April 2010 suggested some minor changes to these but I am not going to comment on these this morning because the issues remain essentially the same. From 15th April 2010 I attempted to meet with Mr. Power in order to give him an opportunity to comment on these before I made a decision as to which charges should go forward. He raised various different points and it was apparent to me that he wanted to avoid meeting with me, presumably so that he could say that no charges were ever formally brought against him. I want to make it clear that if time had so allowed I would have proceeded with most if not all of these disciplinary charges.

F) THE FINANCIAL MANAGEMENT ASPECTS

I am proposing to take the Wiltshire Finance Report together with the BDO

Alto Report. There is no doubt that the unsatisfactory finance structure of the Home Affairs Department will have slightly contributed to the problems. It is simply not satisfactory that the Chief Officer at Home Affairs should be the Accounting Officer for the States of Jersey Police when he has no oversight or control over the activities of the States of Jersey Police.

It is also possible that the announcements of senior politicians to the effect that all necessary resources would be provided for the Haut de la Garenne Investigation without the setting of a formal budget may have led the Senior Police Officers to believe that they had greater freedom in terms of expenditure than would be usual in relation to a normal investigation.

However, both of those issues are countered by the letters of assurance which were sought by Mr. Austin-Vautier and given by the most senior police officers.

G) CONCLUSIONS

There is only one conclusion and that relates to the failure of oversight of Mr. Power in relation to the establishment of efficient and effective oversight of financial expenditure prior to July 2008. This failure links back to the original decision to concentrate control on the two most senior officers, Messrs. Power and Harper and the decision not to form a Gold Group, which would have exercised some oversight over expenditure.

However, a key issue was the failure to appoint a Finance Officer for the Investigation. It is quite surprising that with all the additional police officers and forensic experts who were brought into the Island that neither Mr. Power nor Mr. Harper realised the need for a police officer who would be devoted to ensuring value for money.

The management and oversight failures which are best detailed in the BDO Alto report are principally in the following areas.

1) OVERTIME PAYMENTS

Huge amounts of overtime were worked by Police Officers during the early parts of the Investigation. There are two separate issues here. The first issue is that officers were being paid overtime at double time rates for months, substantially in relation to the guarding of the Haut de la Garenne site. What should have happened is that the overtime should have been rostered at an early date so that overtime payments were based upon one and a half times rates. Although no calculation has been made of the effect of this, I have calculated that the additional cost will have been of the order of £100,000.

A related issue is the issue as to why the two senior officers believed that the investigation had to be rushed. The point here is that the Golden Hour principle simply did not apply. That principle means that when there is a major crime there is often a very short period at the start to obtain information from witnesses before memories dim. But this was an Historical Abuse Enquiry and related to matters which were already years old.

The rushing effect in relation to the investigation will have increased the overtime requirement quite unnecessarily.

2) WAS THE DIGGING INSIDE THE BUILDING NECESSARY?

This is a more difficult issue. The BDO Alto report follows the conclusions of the earlier Metropolitan Police Report. However, in Section 2.58 and 2.59 of the main report you will see that the conclusion of the Wiltshire report is that although the initial decision to dig inside Haut de la Garenne was questionable, they are of the opinion that it was reasonable to conduct the search inside Haut de la Garenne. I would comment that that is particularly so after the original mistaken opinion of the anthropologist and for disciplinary purposes I would have followed the Wiltshire opinion although I understand that some people will take the view of BDO Alto.

3) THE DIGGING AT VICTORIA TOWERS

However, there does not appear to have been any sufficient reason for the decision to start digging at Victoria Towers. The cost of this was substantial both in terms of the maintaining of a cordon and in terms of the costs of experts although I do not have precise figures for this.

4) THE USE OF SPECIALIST SEARCH DOGS

Unfortunately, there were a whole number of problems with this.

- a) Firstly, the decision was made to use a private firm rather than similar dogs from another police force and this will have been more expensive.
- b) Secondly, the individual who was used was no longer fully accredited.
- c) Thirdly, the specialist dog for searching for bodies was 7 months beyond its police accreditation. It is now apparent that the dog was giving false positives.
- d) Fourthly, the second specialist dog became out of date for testing for police accreditation after one month.
- e) Fifthly, the sum of £92,705 was spent on the dog handler and dogs for 139 days of charged work and yet the dogs were only used for 35 days. A further 23 days of the work of the handler in other capacities are accounted for but 81 days of work are not accounted for although 17 of these were for days upon which the dog handler was not going to work (ie Sundays).
- f) Sixthly, accommodation costs for the dog handler were £15,818 and he stayed at an hotel at the wrong side of the Island. Furthermore, the dog handler was wrongly granted an upgrade for his accommodation which cost £1,613 extra.

5) THE CHARGES FOR LGC THE FORENSICS COMPANY

The initial charging was on the basis of an hourly rate with a top rate of £130. However, after a time LGC themselves suggested a move to a daily rate with a maximum of £750 per day. As LGC staff were working 12 hour days that would have meant a daily charge of £750 rather than £1,560 but this offer of reduction of rate was never taken up by the States of Jersey Police. The total invoiced costs of LGC came to over £450,000 and so the saving would have been substantial.

There was also an issue in relation to the LGC staff also being placed at an expensive hotel on the wrong side of the Island.

6) EXPENSIVE MEALS FOR MR. HARPER AND OTHER OFFICERS IN LONDON

I come last to items which although not the largest in terms of cost are likely to weigh heavily in the public mind.

On a number of occasions Mr. Harper travelled with a number of officers to London for meetings with police officers from the Metropolitan Police Force. None of the meetings took longer than two hours and some of those who were present have doubted their value. In all cases it would have been possible to have travelled over and back on the same day. However, on a number of occasions there were stays in London for one or more nights and during these stays there were expensive meals.

The guidelines for the States of Jersey Police were that meal costs should not exceed £25.22 per head for dinner and that the costs of alcoholic drinks should be paid by the officers themselves. Here are some examples:-

- a) 3rd February 2008 a meal for four costing £212.90 divided between 2 purchase cards;
- b) 4th February 2008 a meal for four costing £418.50 divided between 2 purchase cards;
- c) 5th February 2008 a meal for four costing £449.72 divided between 2 purchase cards;
- d) 30th April 2008 a meal for five costing £300 divided between 4 purchase cards;
- e) 1st May 2008 a meal for eight including a reporter from the News of the World costing £699 divided between 3 purchase cards.

Page 56 of the report indicates analysis of Mr. Harper's purchase card over an 8 month period shows 45 transactions at restaurants, often high class establishments and that the combined charging on this card and that of Mr. Harper's driver/staff officer over that period came to £7,802. It is also of concern that the amounts of the larger bills were split between a number of cards, apparently in an attempt to conceal the size of the total amount.

The issue in relation to Mr. Power is that he should have checked and authorised Mr. Harper's expenses but in fact they were authorised by a more junior policeman. The grossly expensive meal expenses demonstrate a pattern of expenditure which was totally out of control.

G) THE ROLE OF THE ACPD HOMICIDE WORKING GROUP

There has been a great deal of misinformation put into the public domain in relation to this and I, therefore, want to explain the position of the Wiltshire Police on this and my own position.

Firstly, what we are dealing with here is not the Association of Chief Police Officers itself but a working group of police officers whose role is to provide specialist advice when this is required in relation to homicide investigations.

Section 2.3 of the Executive Summary of the main report on the Haut de la Garenne investigation explains some of the issues. It is to the credit of Mr. Power that he sought such advice. However, things very rapidly went wrong. The Working Group advisers decided to only make recommendations to which Messrs Power and Harper had previously signalled their approval.

In particular their advice to form a Gold Group was omitted. Because Messrs. Power and Harper did not want one. This whole process greatly undermines the credibility of the advice as being truly independent advice. It was Mr. Harper who first made contact with the senior officer involved rather than a request for assistance being channelled through ACPO itself.

Furthermore, the senior officer involved had a clear potential conflict of interests in that he was then a candidate for a very senior post in Jersey namely that of Mr. Harper's replacement. Unfortunately, this officer put himself in a position in which he could have had a motive to want to ingratiate himself to Mr. Power who would be involved in the selection process.

Furthermore, at times Messrs Power and Harper failed to understand and carry out the advice which was given and the responsibility for oversight of the Haut de la Garenne investigation always remained squarely with Mr. Power as the overseeing officer. The advice of the Working Party did not extend to financial management issues with the exception of one general recommendation.

Notwithstanding all this, I agree with the assessment of the Wiltshire Police that the involvement of the Working Party may have given Mr. Power a false sense of security.

However, it is very clear from the Wiltshire report and particularly from section 2.3 that the Working Party reports are very far short of providing Mr. Power with a defence in relation to the Conclusions of the Wiltshire Police and that they have taken these into account in reaching their conclusions.

Finally, I am aware that the Working Party reports were used by Mr. Power as a means of placating his own Minister and Assistant Minister in relation to the concerns which they and other States Members were raising. It is, therefore, particularly galling to find that the advice recorded was far from complete and far from truly independent.

H) ISSUES FOR THE PRESENT AND THE FUTURE

The regrettable failures which have been highlighted in the three reports raise a number of different issues for the present and the future.

Firstly, it is clear from the above that the present Acting Chief Officer of Police is fully vindicated by these reports. He had no honourable option but to bring the clear failures of oversight and management which he had found to the attention of the Minister for Home Affairs of the day Deputy Andrew Lewis. The issues which he raised are reflected in the Conclusions and the suggested disciplinary charges. It is very unfortunate that Mr. Warcup has

himself been subject to unfair and unsubstantiated innuendo and criticism from both past and present members of the States.

Secondly, it is clear from the above that ample grounds existed for the original suspension of Mr. Power by Deputy Andrew Lewis and for my maintaining this suspension. The issue as to whether the procedure followed by Deputy Lewis was correct will be dealt with in a separate report which is due shortly.

Thirdly, a number of other important issues are raised including:-

- 1) The issue as to how political and organisational oversight of the States of Jersey Police can be better arranged in future.

I have for some months been meeting with a working party which has been set up in order to advise me on the formulating of new proposals for a Police Authority. This is particularly recommended by the Wiltshire Finance Report. My immediate concern is that in the aftermath of these reports and the report on Operation Blast that there will be a call for stronger control of the States of Jersey police. We cannot get away from the need to preserve the operational freedom of the police although that needs to be balanced with the need for efficient management and use of resources.

A related issue which arises is in relation to the performance of ministerial government in relation to this case. I have held the view for some time that ministerial government is too dependant upon the abilities of individual ministers. Could these failures have been prevented if the Minister for Home Affairs at the time had been working together with a Police Authority or even with a group of other States members. It is difficult to be certain but I strongly suspect that the leadership of the States of Jersey Police would have been more rigorously tested.

- 2) Issues will inevitably arise as to the selection processes for senior police officers.
- 3) There is the issue of the impossible position of the Chief Officer of Home Affairs in being the accounting officer for the States of Jersey police without having managerial control. That must be changed as soon as possible. At the same time the processes for checking financial transactions and in particular for checking transactions on purchase cards need to be tightened up.
- 4) Allied to this is the need for the setting of proper budgets in relation to major investigations.
- 5) There are the issues of the various recommendations which been made by the Wiltshire police in relation to the running of the States of Jersey Police. I am not going to deal with these this morning because the Acting Chief Officer of Police has only recently seen these.

However, I would say this. From the time when Mr. Warcup took over responsibility for the Haut de la Garenne investigation the previous failures started to be corrected. A Gold Group was started, an outside review from the Metropolitan Police was obtained, proper financial

management was established, some cases which were virtually closed were re-opened and reinvestigated with resulting successful prosecutions. In all this Superintendent Gradwell played an important part and the management standards for the investigation which are now normal across the UK were applied.

- 6) There are issues in relation to the current police structures which will very soon be addressed. In particular, the lack of senior officers with experience of running major investigations was exposed. That is the role which was played by Mr. Gradwell. We need to have a permanent officer at the level of Superintendent who can fulfill this role in future.
- 7) There is also the need for the maintenance of good working relationships with prosecutors and with other agencies. This provides a process of cross-checking how the States of Jersey Police are operating and is a further safeguard against the over concentration of the making of major decisions in the hands of a few senior police officers.
- 8) For my part, whilst I remain the Minister for Home Affairs I commit myself to working together with other States members, with the leadership of the States of Jersey Police and with other agencies in order to improve the working and efficiency of the States of Jersey Police, learning lessons from the past failures and looking forward to a better future of service to the people of Jersey.

Senator Ian Le Marquand

Home Affairs Minister