



Operation HAVEN

An independent disciplinary investigation by Wiltshire Police following the suspension of Chief Officer Graham POWER of the States of Jersey Police on 12 November 2008

Senior Investigating Officer:
Brian MOORE QPM
Chief Constable
Wiltshire Police

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Obligation to confidentiality

1. Paragraph 1.2 of the discipline code (for Chief Officers of the States of Jersey Police) requires that all parties involved in the operation of this code will maintain confidentiality while proceedings are being progressed. The outcome of any particular case arising under the code will not, as a general rule, be publicised, but it is accepted that following the outcome of a particular case, the Home Affairs Minister and/or the States Employment Board and/or the Chief Officer, might decide that public disclosure is appropriate.
2. This Report contains personal data within the meaning of the Data Protection Act 1998 and Wiltshire Police would breach the first data protection principle if it were to disclose that information. Hence, the information is exempt under s.40(2) Freedom of Information Act 2000.
3. This Report contains information that has been, and continues to be, held by Wiltshire Police for the purposes of an investigation which it has a duty to conduct and which ought not to be disclosed (under s.30 Freedom of Information Act 2000).
4. An obligation of confidence upon Wiltshire Police arises from the duty outlined at one above and disclosure of information would be likely to prejudice relations between the United Kingdom and Jersey. Information, therefore, ought not to be disclosed (under s.27 Freedom of Information Act 2000).

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1. Background and context

1.1 This Report relates to a disciplinary investigation undertaken by Brian MOORE QPM, Chief Constable of Wiltshire Police, following the suspension on 12 November 2008 of Graham POWER QPM, Chief Officer of the States of Jersey Police, in relation to alleged failings in his supervision of the Historic Child Abuse Enquiry known as Operation Rectangle. The Wiltshire Police investigation is known as Operation Haven.

1.2 Chief Officer POWER's career history

1.2.1 Chief Officer POWER's police career commenced in 1966 in the then Middlesbrough Constabulary which through a process of amalgamation became a part of Cleveland Constabulary. In 1974, he was selected for the accelerated promotion scheme and was promoted to sergeant in 1975. In his early years in Cleveland, he served in uniform, CID and the traffic department. Later as a police sponsored student, he read Politics, Philosophy and Economics at Oxford University and achieved an MA with second class honours in 1979. He rose through the ranks to become Superintendent in 1985. In 1988, he transferred to North Yorkshire Police and was promoted to Chief Superintendent and became Commander for Harrogate Division.

1.2.2 After attending the Senior Command Course in 1991 he was appointed Assistant Chief Constable of Lothian and Borders Police in Scotland, where he oversaw 'management services' comprising recruitment, finance, I.T. and related disciplines. He became the Deputy Chief Constable of Lothian and Borders Police in 1994 and in the same year was awarded the Queen's Police Medal for his distinguished services to policing. In 1998, he took up a position as Her Majesty's Assistant Inspector of Constabulary for Scotland.

1.2.3 Following his retirement from the police service in Scotland, Graham POWER was appointed as the Chief Officer of the States of Jersey Police on 1 November 2000. His initial contract of service was for a period of five years and was due to expire on 31 December 2005. However, this contract has twice been extended and his current employment contract is due to terminate on 31 December 2010.

1.2.4 During his career, CO POWER has attended formal training courses as follows:

1974 Police College Bramshill
Special Course (accelerated promotion)

1983 Police College Bramshill
Research and Planning

1985 Northumbria Police training school
Public Order Command course

1988 West Yorkshire Police training school
Tactical Firearms Commander

1988 Police Staff College Bramshill
Intermediate Command course

1990 Police Staff College Bramshill
Public Order ground commander

1991 Police Staff College Bramshill
Senior Command Course

1992 Police Staff College Bramshill
Equal Opportunities

1.2.5 If the above is correct, it will be apparent that CO POWER has received no formal 'refresh' training since 1991.

1.2.6 In 1997, whilst Deputy Chief Constable of Lothian and Borders Police, Mr POWER planned and led the policing of the Commonwealth Conference which, at that time, was the largest political conference ever held in the United Kingdom.

1.2.7 In 1998, he led a team of investigators conducting a major review of a Grampian Police investigation into the abduction and murder of

X

In his concluding report, he made

several recommendations for future practice. Reference will be made later in this Report to that review.

- 1.2.8 This Inquiry has not been asked to pass comment on CO POWER's general attributes or reputation as a Chief Officer. However, given the insight that we have acquired in conducting this investigation, we conclude that CO POWER was a competent Chief Officer when managing the routine business of the States of Jersey Police. This is reflected in the overall performance of the Force and the generally positive opinions expressed by the Her Majesty's Inspectorate of Constabulary in 2006 and 2008. The evidence accrued by Operation Haven also suggests that, while CO POWER was confident and competent in managing the ordinary, he was ill-equipped to manage the extraordinary when it arose in the shape of Operation Rectangle.

1.3 Structure of the States of Jersey Police

- 1.3.1 The Bailiwick of Jersey is a self-governing Island measuring 45 square miles and incorporating 12 parishes, each headed by a democratically elected Connétable with its own honorary police force. The professional States of Jersey Police has an Island-wide mandate and has existed, in its current form, since 1952. Effectively, therefore, the Island has 13 police forces.
- 1.3.2 The States of Jersey Police is responsible to the Home Affairs Minister who undertakes the role of what would be considered in the UK, a Police Authority. The Chief Officer's political accountability is to the Minister under Article 9 of the Police Force (Jersey) Law 1974 for the '*general administration and the discipline, training and organisation of the Force*'. In addition, the Chief Officer of Police is one of a number of Chief Officers on the Island who report directly to the Chief Executive to the Council of Ministers and Head of Public Service. The Chief Executive conducts a formal Performance Review and appraisal in respect of all Chief Officers, including the Chief Officer of Police. This includes performance against the Policing Plan, the application and maintenance of appropriate policing

standards as advised by HMIC, and in respect of the effective and efficient use of resources. However, the Chief Officer's Performance Review is more collaborative in nature due to the fact that the Chief Officer of Police also reports directly to the Home Affairs Minister. By law, the Chief Officer of Police has complete operational independence from the Council of Ministers.

- 1.3.3 The States of Jersey Police comprises 240 officers and 95 civilian support staff. The Senior Management Team consists of the Chief Officer, Deputy Chief Officer, a Superintendent and three Chief Inspectors. For ease of reference, a full organisational chart of the States of Jersey Police is included within the Evidential Bundle accompanying this Report. The States of Jersey Police currently operates from four operational sites: Police Headquarters, the 'Summerland' site in Rouge Bouillon, and the Special Branch offices at Jersey Airport and St Helier Harbour.

1.4 Role profile for the Chief Officer

- 1.4.1 The role profile for the Chief Officer of Police, described in the post's job description, is to *'direct, control and command the States of Jersey Police Service and its civilian support staff in accordance with the Police Force (Jersey) Law 1974 and the policies of the Home Affairs Department in order to provide an effective and efficient police service and to advise the Home Affairs Minister on all aspects of the provision of policing in the island'*. The principal accountabilities of the Chief Officer are listed within the job description which can be found within the Evidential Bundle accompanying this Report.
- 1.4.2 The provisions of the Police (Complaints and Discipline) Jersey Law 1999 and the Police (Complaints and Discipline Procedure) (Jersey) Order 2000 do not apply to the Chief Officer. He is subject to a disciplinary code for the Chief Officer of Police which forms part of his contract. Although he remains subject to that code, it has been amended so as to substitute references to the Home Affairs Minister for references to the former Home Affairs Committee.

1.4.3 CO POWER sits on the States' Corporate Management Board, chaired by the Chief Executive to the Council of Ministers. The Chief Executive has a specific responsibility to the Corporate Management Board for the performance of all States' departments, not just for the police. CO POWER also represents the Channel Islands and the Isle of Man on the ACPO Terrorism and Allied Matters Business Area. He is a candidate assessor for the Home Office 'Police High Potential and Strategic Leadership Programme' which assesses members of the police service considered suitable for advancement to the most senior ranks.

1.5 Operation Rectangle – a brief chronology of events

1.5.1 A full chronology can be found at Appendix 1

1.5.2 In April 2006, the States of Jersey Police became concerned at the number of allegations of reported child abuse against State employees and those in a position of trust and responsibility over children. These concerns were particularly highlighted when the Commanding Officer of the States of Jersey Sea Cadets was prosecuted for downloading pornographic images of children, including some sea cadets. Another male pleaded guilty to historic offences of child abuse at Haut de la Garenne, a former children's home. The States of Jersey Police began to examine a number of previous cases and as a result a Historic Child Abuse Enquiry, codenamed Operation Rectangle, commenced on 10 September 2007. During this review enquiry, references were made to abuse which had allegedly taken place at Haut de la Garenne. A 'covert' phase of the Historic Child Abuse Enquiry was undertaken from September until November 2007 when the investigation was made known to the public. The overt phase, from November 2007, concentrated on public appeals for potential victims and witnesses to contact the States of Jersey Police. This resulted in a positive response and on 13 December 2008, the enquiry was

preliminarily declared a 'critical incident' and classified as 'Category A+'. This Category is defined in the Murder Investigation Manual as *'a homicide or other investigation where public concern and the associated response to media intervention is such that normal staffing levels are not adequate to keep pace with the investigation'*.

- 1.5.3 In January 2008, with the assistance of Devon & Cornwall Constabulary, Operation Rectangle data were transferred from a manual card indexing system to the full 'Home Office Large Major Enquiry System' (HOLMES) database. DCO Lenny HARPER performed the role of the SIO alongside his duties as Deputy Chief Officer and **OFFICER X** was appointed as the Deputy Senior Investigating Officer (DSIO). CO POWER was aware of the investigation and at times *'provided confidential briefings to the Minister for Home Affairs, Wendy KINNARD, the Chief Minister Frank WALKER and the Chief Executive Bill OGLEY'*.
- 1.5.4 As enquiries continued, the decision was made to focus on the former children's care home at Haut de la Garenne within the investigation.
- 1.5.5 Haut de la Garenne was built in 1866 as a privately run home for destitute and orphaned children. In 1900 it became known as the Jersey Home for Boys. The Education Committee took responsibility for it in 1953 when it became a mixed-gender home and was re-named Haut de la Garenne. The building ceased to function as a children's home in 1983 and at the time of the search, in February 2008, it was a youth hostel.
- 1.5.6 During January 2008, a decision was taken to search the Haut de la Garenne for the presence of human remains. The rationale for this decision is commented on in a later Section of this Report. The search of the building commenced on 19 February 2008 and following a further decision to search 'Victorian Bunkers' nearby, the searches were completed on 2 August 2008. Immediately prior to the search commencing DCO HARPER held a meeting with LGC Forensics and representatives from the National Policing Improvement Agency

(NPIA) in order to assess the logistics for the search. As a result, a number of experts were called upon to assist with the investigation, including anthropologists, archaeologists and specialist search advisors. On 23 February 2008, Haut de la Garenne attracted national and international media attention when the 'potential remains of a child' were said to have been discovered inside the building. As a result of this discovery, the investigation fell into two distinct functions, the on-going enquires into sexual abuse and the search for human remains at Haut de la Garenne and its environs.

1.5.7 As Operation Rectangle gained media momentum from 23 February 2008 onwards, at the suggestion of CO POWER, the ACPO Homicide Working Group was contacted to provide mentoring and advice to the Operation Rectangle investigation team. Agreed terms of reference were signed by CO POWER and **X** representing the ACPO Homicide Working Group. There has been much contention over the term of reference '2c', i.e., whether the ACPO Homicide Working Group was providing 'quality assurance' of the Operation Rectangle investigation. Between February and June 2008, the ACPO Homicide Working Group led by **X** attended the Island and provided mentoring and advice mainly to DCO HARPER. The ACPO Homicide Working Group Team comprised **X**, **X** and **X**. Four reports with recommendations were submitted by them to the States of Jersey Police.

1.5.8 Following the events of 23 February 2008, DCO HARPER was appointed as SIO for Operation Rectangle on a full time basis and relinquished the DCO function to **OFFICER X**. **OFFICER X** remained as the DSIO, although Acting **OFFICER X** assumed that role from January to March 2008 whilst **OFFICER X** attended a training course followed by a period of annual leave.

- 1.5.9 The Home Affairs Minister at the commencement of Operation Rectangle was Senator Wendy KINNARD and the Assistant Minister was Deputy Andrew LEWIS.
- 1.5.10 On 29 May 2008, Deputy Andrew LEWIS took over Senator Wendy KINNARD's responsibility for Operation Rectangle **TEXT REDACTED**. Deputy Andrew LEWIS then subsequently assumed the role of Home Affairs Minister in October 2008 after Senator KINNARD left her ministerial role.
- 1.5.11 DCO HARPER led Operation Rectangle as the SIO until his retirement in August 2008. His successor as the new DCO, David WARCUP, was appointed on 4 August 2008. There had been regular contact between David WARCUP and CO POWER prior to the commencement of his DCO role with the States of Jersey Police. As will be seen in this Report, CO POWER makes reference to speaking to David WARCUP by telephone and updating him on certain issues prior to his appointment. Detective Superintendent Michael GRADWELL, seconded from Lancashire Constabulary, was appointed as the new SIO for Operation Rectangle on 8 September 2008.
- 1.5.12 Upon his appointment, DCO WARCUP assumed responsibility for the strategic oversight of Operation Rectangle. In line with best practice and as suggested in Recommendation 68 of the ACPO Homicide Working Group report, DCO WARCUP wrote to **OFFICER X** of the Specialist Crime Directorate, Metropolitan Police, in August 2008, formally requesting assistance in undertaking a full review of the Historical Abuse Enquiry and this was agreed. In September 2008, the Specialist Crime Review Group commenced their review of Operation Rectangle. A review is a specific, structured process undertaken by experienced, specialist investigators against the standards described in the Murder Investigation Manual and the Major Incident Room Standardised Administrative Procedure Manual.

- 1.5.13 The purpose of the review and the report which followed was to provide advice, guidance and learning for the SIO and the Operation Rectangle team. A review will typically highlight well run aspects of an investigation and comment on areas that require attention. In order to be effective and to encourage staff to speak openly, the content of the final report of the review is intended to be provided and received in a spirit of learning. Public disclosure of the report is resisted and it usually attracts public interest immunity. Accordingly, it would not be disclosable for the purposes of a discipline hearing as to do so could undermine the public interest by inhibiting candour between interviewers and interviewees in the review process. The review report for Operation Rectangle has not, therefore, been relied on or quoted from in this Inquiry. Witness statements have, however, been provided by **X**, Lead Review Officer, and Detective **OFFICER X**, the Head of the Specialist Crime Review Group.
- 1.5.14 Whilst the Specialist Crime Review Group was conducting the review, DCO WARCUP and Detective Superintendent Michael GRADWELL were also assessing aspects of the investigation. Comment will be made on their opinion throughout this Report. ACO WARCUP will state that on a number of occasions, he sought to raise concerns with CO POWER about the enquiry. In particular, the Media Section of this Report highlights the evidence of DCO WARCUP who tried to persuade CO POWER to participate in a press conference on 12 November 2008 to 'put the record straight' in relation to the items found at Haut de la Garenne and which were reported, incorrectly, to the public.
- 1.5.15 An interim review report was delivered to DCO WARCUP by the review officers from the Metropolitan Police Service on 10 November 2008. On 10 November 2008, DCO WARCUP wrote to Chief Executive Bill OGLE, outlining his concerns with regard to what he termed as *'failings in relation to the command and management of the ongoing Historic Child Abuse Enquiry.'*

- 1.5.16 On the evening of 11 November 2008, DCO WARCUP and Detective Superintendent Michael GRADWELL provided a briefing to the Corporate Parent Group of Ministers in regard to Operation Rectangle in advance of a media briefing that was to occur on 12 November 2008. The purpose of the media briefing was to correct previous reports about Operation Rectangle that were in the public realm and were considered inaccurate and had the potential to harm future trials. The briefing announced that the forensic recoveries made on 23 February 2008 and subsequently at Haut de la Garenne provided no indication of any murders having taken place there, and that, contrary to public perception, there had been no bodies burnt or disposed of. On the evening of 11 November 2008, CO POWER was contacted whilst at home and invited to attend a meeting the following day with the Minister, the Chief Executive and the Head of Human Resources.
- 1.5.17 On 12 November 2008, CO POWER was informed that he would be subject to the Formal Disciplinary Process and was suspended from duty by Deputy Andrew LEWIS. DCO WARCUP was appointed to the role of Acting Chief Officer of Police. The suspension has been subject of a review process by the Home Affairs Minister, but remains in place at the time of writing this Report.
- 1.5.18 In November 2008, Chief Constable Brian MOORE was requested by Her Majesty's Inspectorate of Constabulary, to undertake a disciplinary investigation into CO POWER's role in relation to Operation Rectangle. Terms of reference for the disciplinary investigation were agreed on 1 December 2008, and Operation Haven commenced on that date. Following a six month evidence gathering phase, Operation Haven made preparations for the interview of CO POWER and disclosed to him various documents relevant to the interview. In the absence of legal representation, CO POWER declined to be interviewed but supplied a lengthy written statement.

1.6 Operation Haven terms of reference

1.6.1 Chief Constable MOORE was formally commissioned to undertake the discipline investigation by Bill OGLE, the Chief Executive to the Council of Ministers, by way of a letter dated 1 December 2008. The following terms of reference were agreed:

1.6.2 *In respect of States of Jersey Police Historic Child Abuse Investigation (Operation Rectangle) and in the context of the duties of the Chief Officer of Police, as set out in Article 9 (3) of the Police Force (Jersey) Law 1974, (i.e. the Chief Officer of Police shall be responsible to the Minister for the general administration* and the discipline, training and organisation of the Force and of the Port Control Unit) to undertake a disciplinary investigation which seeks to establish,*

1.6.3 1. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle (including the supervision of the financial management of Operation Rectangle).*

1.6.4 2. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle as a critical incident.*

1.6.5 3. *Whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of the media strategy in respect of Operation Rectangle. And,*

1.6.6 4a. *In discharging 1-3 above, if it is discovered that a person may have committed any criminal offence which may have a bearing on 1-3 above, this will be disclosed to the Acting Chief Officer of Police and the investigative approach will be agreed with him.*

* A separate report will be prepared by Operation Haven in respect of the financial management of Operation Rectangle and, therefore, this issue is not dealt with in this Report.

4b. In respect of the States of Jersey Police, if it is discovered that a person may have committed any disciplinary breach which may have a bearing on 1-3 above, this will be disclosed to the Acting Chief Officer of Police and the investigative approach will be agreed with him.

1.6.7 5. *To identify and report any corporate learning for the benefit of the States of Jersey Police identified from 1-4 above.*

1.6.8 A copy of the disciplinary code for the Chief Officer of Police (States of Jersey Police) is included in the Evidential Bundle accompanying this Report.

1.7 Operation Haven planned method of investigation

1.7.1 In order to assess the performance of CO POWER in his supervision of Operation Rectangle, Operation Haven adopted the following investigation plan:

- Ascertain the standard of investigation applicable to the States of Jersey Police.

This Inquiry has sought to discover whether the standards that the States of Jersey Police were working to were the relevant ACPO/NPIA standards.

- Ascertain what CO POWER should have known about the ACPO/NPIA standards of investigation based on his previous experience.

Through enquiries with CO POWERS's previous forces and his experience within the States of Jersey Police, Operation Haven sought details of his training, his experience and the previous investigation standards he has worked to. Witness evidence seeks to include details of his knowledge and awareness of those standards.

- Ascertain what CO POWER did know about the ACPO/NPIA standards.

This was intended to be discovered during the formal interview of CO POWER by this Inquiry. In the absence of that interview, the examination of witness testimony, his prepared statement and documentation has allowed Operation Haven to draw conclusions relating to CO POWER's knowledge.

- Ascertain any failings by CO POWER in respect of the standard.

Evidence gathered from witnesses, the analysis of available documentation and the examination of his e-mail communication provided Operation Haven with material that was considered by expert witnesses in order to assess CO POWER's performance. Experts were used to help assure the findings of this investigation and provide an independent opinion. The expert witnesses were provided with access to relevant material including CO POWER's witness statement.

- Ascertain whether there has been a failing against a criminal or misconduct threshold.

The material gathered by this Inquiry has been examined by lawyers commissioned by Operation Haven.

- Ascertain whether there been a failure of performance by CO POWER.

Similarly, the material gathered has been examined by lawyers commissioned by Operation Haven.

1.8 The investigation and supervision standards for Operation Rectangle

- 1.8.1 Operation Haven has sought to assess the actions of CO POWER against the relevant Association of Chief Police Officers and National Policing Improvement Agency standards which are included within the Evidential Bundle accompanying this Report and summarised below.

- **The Murder Investigation Manual** was first published on behalf of ACPO in September 1998. It was compiled by a group of experienced Senior Investigating Officers supported by experts and other professionals working in the criminal justice system. They carried out extensive consultation within the Police Service and partner agencies to identify good practice in homicide investigation. The resulting manual was widely praised for consolidating the wide array of complex issues involved and it is now regarded as the definitive guide on homicide investigation by practitioners and policy makers alike. It is used to underpin the training and development of SIOs and has become a reference point for the investigation of all types of major crime. The second edition was published in 2000 after being amended to take into account changes in legislation and procedure. The current edition, published in 2006, was further amended to take into account legislative, scientific and technical advances, together with procedural developments that have come about through lessons learned from public enquires, coroners' inquests, criminal trials and internal reviews. The current 2006 version of the manual focuses mainly on the role of the SIO and the strategic issues involved in investigating a homicide. Many of the associated tactical elements are now dealt with in separate manuals of guidance.
- **The Major Incident Room Standardised Administrative Procedures** were published in a consolidated form on behalf of ACPO in 2005, providing the Police Service with clear information and guidance on the procedures to be used in a Major Incident Room. The success of any major investigation requires an organised and methodical approach and the Major Incident Room is central to this. All information gathered from members of the public, enquiry officers and other sources is recorded and managed using a standard set of administrative procedures, into a system used by the SIO to direct and control the enquiry.

- **The Investigation of Historic Institutional Child Abuse** guidance was published on behalf of ACPO in 2002. It was produced after SIOs nationally recognised that a number of complex historical investigations had been undertaken with limited national guidance and an absence of documented good practice. There followed extensive consultation with SIOs throughout England, Wales and Northern Ireland who had experience in dealing with historic abuse investigations.
- **Practice Advice on Critical Incident Management** was published on behalf of ACPO in 2007. The advice contained in the manual was developed in response to concerns raised by the Police Service in England, Wales and Northern Ireland regarding its ability to identify and manage critical incidents. The manual provides Chief Officers with a range of strategies for developing protocols and procedures to help forces to prepare for, identify and manage critical incidents.
- **ACPO Media Advisory Group** guidance notes were published in 2002, replacing those previously published in 2000. The guidance aims to encourage consistency of practice by police forces when dealing with the media. The guide provides a clear working framework to assist police to maintain effective working relationships with the media.
- **The Effective Use of the Media in Serious Crime Investigations** is a report published by the Home Office in 1999. It explores the central issues surrounding effective media handling in major crime investigation. It includes advice on developing media strategies, managing media interest, the disclosure and acquisition of information and wider concerns regarding relations with victims, families and communities. The information contained in the report was gathered following interviews with SIOs and media liaison officers involved in 16 investigations of murders and sexual assaults.
- **Practice Advice on Core Investigative Doctrine** is a manual that provides definitive national guidance for all investigators on the key

principles of criminal investigation, irrespective of its nature or complexity. It was produced by drawing on the collective experience of police practitioners, stakeholders and academics to provide a single definitive document providing a strategic overview of the investigative process and providing a framework for investigative good practice. It was published in 2005.

- **Working Together to Safeguard Children** was published by HM Government in 2006 and is a guide to inter-agency working to safeguard and promote the welfare of children.

1.8.2 The majority of these manuals have been produced by the NPIA. For clarity the roles of the NPIA, ACPO and Her Majesty's Inspectorate of Constabulary (HMIC) are explained below:

- NPIA was formed in April 2007, *'its purpose being to make a unique contribution to improving public safety'*. Through its National Improvement Strategy for Policing, its aim is to help its partners – ACPO, the Association of Police Authorities and the Home Office – to take a long term view about policing.
- ACPO is an independent, professionally-led strategic body. In the public interest and, in equal and active partnership with government, ACPO leads and co-ordinates the direction and development of the Police Service in England, Wales and Northern Ireland.

1.8.3 ACPO and NPIA issue guidance to police forces in England, Wales and Northern Ireland on a variety of policing matters which are considered best practice. It is accepted that the States of Jersey Police is not bound to follow guidance issued by ACPO/NPIA. Evidence collected by Operation Haven indicates that CO POWER was aware of the existence of ACPO/NPIA guidance and that he was or should have been aware that certain guidance issued by ACPO/NPIA had been introduced to the working practices of the States of Jersey Police. His officers attended accredited NPIA training courses in the UK. There is also evidence which indicates

that States of Jersey Police sought to follow and introduce ACPO/NPIA guidance, where it was thought appropriate.

- The role of Her Majesty's Inspectorate of Constabulary is to promote the efficiency and effectiveness of policing in England, Wales and Northern Ireland through inspection of police organisations and functions to ensure that agreed standards are achieved and maintained. Also, that good practice is spread and performance is improved. Inspectors are appointed by the Crown on the recommendation of the Home Secretary and report to Her Majesty's Chief Inspector of Constabulary, who is the Home Secretary's principal professional policing adviser and is independent of the both the Home Office and the police service.

CO POWER invited Her Majesty's Inspectorate of Constabulary to inspect the States of Jersey Police in 2006, which incorporated a follow-up visit in March 2008. The two reports relating to these inspections and visits are contained within the Evidential Bundle accompanying this Report. The inspection procedure is explained in the statements of Her Majesty's Inspector Ken WILLIAMS CVO CBE QPM BA, and his Staff Officer, **OFFICER X**, who carried out the inspection.

1.8.4 Prior to the first visit of the HMIC in 2006, CO POWER had identified 10 issues that required HMIC scrutiny. Within the inspection report produced by HMI Ken WILLIAMS is one area of assessment described as 'Investigating Major and Serious Crime'. Under the heading *Compliance with Association of Chief Police Officers (ACPO) Murder Manual*, the report states '*in the event of a serious crime... guidance will be sought from the Major Incident Room Standard Administrative Procedures and murder manual*'.

1.8.5 These two points are also contained in the HMIC re-visit report in 2008, also produced by HMI WILLIAMS. This report has been published in full by the States of Jersey Police on their website.

1.8.6 In their evidence to Operation Haven, both CO POWER and ex-DCO HARPER considered that NPIA standards were not applicable to the States of Jersey Police. The statement of CO POWER infers that the States of Jersey Police assumes no legal duty to adopt the standards of the NPIA though they may adopt those standards, if appropriate. This Inquiry agrees there is no legal duty on the States of Jersey Police, or any force, to adopt ACPO/NPIA guidance. However, as the HMIC Inspection of the States of Jersey Police indicates, standards will be assessed against the ACPO/NPIA guidance. This is the approach adopted by Operation Haven. A letter sent by CO POWER dated 20 December 2008 to the SIO of Operation Haven, Chief Constable MOORE, states *'I am not aware of any mandate which extends their [NPIA/ACPO] authority beyond the UK and certainly none which extends to this Bailiwick... I understand that those holding this view believe that if I am successfully held to account for an alleged breach of UK guidelines then the probable outcome is that all such guidance will thereafter become the bible for policing in this island'*.

1.8.7 Operation Haven contends that on balance, the States of Jersey Police had adopted the ACPO/NPIA standards, based on the HMIC inspections of 2006 and 2008 and on the evidence indicated in the statements of some States of Jersey Police officers and support staff.

- **OFFICER X** the Deputy Senior Investigation Officer for Operation Rectangle, states *'there are no Jersey standards or Jersey standard operating procedures for an investigation like this'*.
- **X** the States of Jersey Police Forensic Services Manager, states *'the forensic officers in Jersey work to the NPIA standard'*.
- **OFFICER X** refers to being *'recently qualified to UK national standard'*.

- **OFFICER X, OFFICER X, OFFICER X, OFFICER X,** were each trained as SIOs to the NPIA standard within the UK.
- **OFFICER X** was '*trained in Ashford to the NPIA/ACPO standard*'.
- ACO David WARCUP states '*At no time in discussions with the Chief Officer of the States of Jersey Police, Mr Graham POWER, has it ever been suggested that the standards to which I have referred should not be applied. Indeed on the contrary it was clear to me that the standards which applied or which we aspired to were the same as those in the UK. This was evident in relation to a number of areas which were discussed in general over time, including misconduct, firearms, child protection, and the problem of vulnerable people, the role of Multi-Agency Public Protection Arrangements (MAPPA) National Crime Recording Standards, call handling, and serious crime investigation*'.

1.8.8 These members of his staff were only aware of and only refer to, UK standards.

1.8.9 In addition, CO POWER sought mentoring guidance and advice from the ACPO Homicide Working Group. The ACPO Homicide Working Group advise and mentor only to the NPIA standards.

1.8.10 For the above reasons Operation Haven contends that the ACPO/NPIA standards are applicable to this misconduct investigation and according to the Murder Investigation Manual Standardised Administrative Procedures any derogation from them should include the documentary evidence as to why the standards are not being adhered to.

1.9 Former DCO Robert Leonard 'Lenny' HARPER

1.9.1 This Inquiry accepts that the accountability of CO POWER should not increase because of the retirement of DCO HARPER from the Police

Service. Where the report identifies failings in the performance of ex-DCO HARPER, those failings were not visited on CO POWER because he is still accountable as a serving officer. Any failings that we conclude are attributable to CO POWER stand on their own merit in respect of CO POWER.

1.9.2 This Inquiry was not asked to investigate ex-DCO HARPER for misconduct matters as he had retired from the Police Service and was no longer subject to discipline regulations. We have little doubt, however, that had he still been serving at the time Operation Haven was launched, this Inquiry would have been considering his conduct.

1.9.3 As Operation Haven has assessed the performance of CO POWER against the relevant ACPO/NPIA standards applicable in the United Kingdom whilst having regard to the States of Jersey Police context, so we have considered identified failings against the conduct standard which is applicable in the UK. We have obtained legal advice in this regard and the specific advice relating to misconduct charges that would be applicable in the UK is contained in this Report. It is quite properly a matter for the competent Authority in Jersey to consider and accept or reject the advice we have received.

1.10 Use of police rank abbreviations

1.10.1 At various times in this Report, the same witness will be referred to, but with different rank abbreviations. For example, Mr HARPER is sometimes referred to as 'DCO HARPER', 'ex-DCO HARPER' or 'former DCO HARPER'. These differences arise depending upon whether the event described or his commentary upon it was pre- or post- his retirement. Similarly, Mr WARCUP is described as 'DCO WARCUP' and 'ACO WARCUP', sometimes in the same paragraph or section. These differences relate to an event or his commentary on an event, pre- or post- the suspension of CO POWER and when Mr WARCUP became the Acting Chief Officer (ACO). This approach has been adopted for other police witnesses in 'acting' ranks or who retired at times relevant to this investigation. We hope this explanation assists the reader.

2. Executive summary

- 2.1 Having considered the evidence available to us, this Inquiry finds that Chief Officer Graham POWER did not possess an adequate range of current, technical policing skills to ensure that he was able to provide effective leadership of Operation Rectangle, probably the largest child abuse investigation in the States of Jersey Police history. We have found no evidence that CO POWER committed any criminal offence relating to his supervision of Operation Rectangle. However, we conclude that he may be in breach of the Discipline Code for Chief Officers in his failure to meet the relevant performance requirements placed upon him by s.9(3) Police Force (Jersey) Law 1974. These potential breaches are described in the Conclusions and Legal Advice Sections of this Report.
- 2.2 By his own admission, CO POWER did not know enough about major crime investigation, criminal procedure disclosure, Gold Groups and Independent Advisory Groups. CO POWER accepts that his *'training and qualifications were becoming dated'*, but this he states, was known to and accepted by, ministers and officials and senior colleagues. In our view, faced with Operation Rectangle, CO POWER's skills and experience were largely obsolete. However, to that point, we have no evidence that his performance was anything other than effective in the role of Chief Officer.
- 2.3 To his credit though, CO POWER sought the advice of the experts in the ACPO Homicide Working Group in respect of Operation Rectangle. Unfortunately, the ACPO advisors adopted a policy of only making recommendations to which CO POWER and his SIO, DCO HARPER, had signalled prior approval rather than making recommendations which robustly challenged them to change their opinions. The lack of clarity surrounding the ACPO Homicide Working Group's advice and mentoring role to the SIO created an environment in which it is now suggested by its representatives, DCO HARPER and CO POWER that some of the ACPO advice was misunderstood. Any misunderstanding which did arise helped to create a false sense of security for CO POWER which ought not to be to his detriment, albeit responsibility for Operation Rectangle rests squarely with him. His sense of security would have been better founded had he maintained his professional knowledge and development and had he supervised DCO HARPER

appropriately. From the moment that CO POWER agreed the appointment of DCO HARPER as SIO, CO POWER was rendered vulnerable by his own lack of training, skills and recent experience in major crime investigation. These vulnerabilities, we conclude, were compounded by misunderstandings of some of the advice provided to him by the ACPO Homicide Working Group.

- 2.4 Based on the evidence available to this Inquiry, we also conclude that CO POWER's position was made more difficult by his 'hands-off' management style which provided the strong-willed and passionate DCO HARPER considerable latitude to pursue his own course and without proper regard to the advice and roles of fellow professionals and other stakeholders. The evidence acquired by this Inquiry suggests that CO POWER felt considerable loyalty to his Deputy, especially regarding DCO HARPER's desire to challenge the 'Jersey way' of the political and legal institutions in the Island which both men felt extended a malign and possibly corrupt influence over the independent pursuit of the truth which CO POWER and DCO HARPER took as their 'mission' in respect of Operation Rectangle.
- 2.5 The Historic Child Abuse Enquiry codenamed Operation Rectangle which commenced in September 2007 proved to be the catalyst for many of the passions and weaknesses of the Chief Officers to be played out in full.
- 2.6 Telling factors were also DCO HARPER's lack of current training and experience as an SIO and his near imperviousness to self-doubt. These deficiencies and traits, combined with the emotive nature of child abuse itself linked to the suspicion of collusion and cover-up by echelons of the State, provided the platform for DCO HARPER to pursue his own agenda irrespective of the true merit of the evidence available to him. We highlight that these salient factors were compounded by CO POWER's apparent reluctance to impose robust supervision, his sense of loyalty to and sometimes admiration for, his Deputy, and CO POWER's own distrust of the political establishment.
- 2.7 In this Inquiry's view, CO POWER made a poor initial judgement in appointing his Deputy as SIO to Operation Rectangle in Autumn 2007, but the judgement at that time that did not amount to a failure in performance. Clearly alive to the significance and scale of media attention after 23 February 2008, CO POWER

wisely secured the assistance of the ACPO Homicide Working Group. Its clearly communicated advice on the need for strategic co-ordination of the investigation was not accepted by CO POWER and an apparent compromise – to appoint an Independent Advisory Group, with some Gold Group responsibilities – was agreed by the Chief Officer, but the inexperienced IAG members left without adequate professional support, were bound to fail and did so, in their role of providing robust advice to the States of Jersey Police on this most difficult of abuse investigations.

- 2.8 The media needed little encouragement to paint a graphic and horrific picture of institutionalised abuse of vulnerable children on the Island. We are clear from the evidence that such reporting was condoned and even encouraged in a number of the States of Jersey Police press releases which variously described the '*partial remains of a child*', '*skull*', '*shackles*', '*bath*', '*cellars*' and '*blood*', none of which transpired to be accurate. Even when the Attorney General challenged CO POWER over the nature and effect of media reporting on the fairness of proceedings against defendants charged with child abuse, CO POWER's supervisory intervention against his Deputy – the principal architect of the misrepresentation in the media – was only to the extent of forwarding to the Attorney General a copy of the Force's media strategy which, in any event, could hardly have been said to have been adhered to at that point. DCO HARPER remained sufficiently emboldened to subsequently publish in the media a direct attack on prosecutors following their refusal to charge suspects whom DCO HARPER was determined to see charged. The ensuing exchanges between the lawyers and the police officers signalled an irretrievable breakdown in trust which CO POWER seemed either powerless to prevent by virtue of his support for DCO HARPER's stance or his inability to properly challenge his Deputy. This Inquiry has not been able to establish any compelling evidence of CO POWER's ability to intercede to control DCO HARPER from the inception of Operation Rectangle in September 2007 until his retirement from the States of Jersey Police in August 2008 by which time fatal damage had been inflicted upon the integrity of Operation Rectangle and which would be publicly disclosed on 12 November 2008 as a result of the press conference held by DCO WARCUP and the CO POWER's subsequent suspension.

- 2.9 DCO HARPER's retirement heralded changes which were to expose the inadequacies in the handling and management of Operation Rectangle. DCO HARPER's successor, DCO David WARCUP, appointed in August 2008, and the separately appointed SIO, Detective Superintendent Michael GRADWELL, appointed in September 2008, set about assessing the investigation and quickly concluded that suggestions of homicide were without substance and that the enquiry lacked focus and direction. An independent review of the investigation by the Metropolitan Police Service challenged many of the earlier subjective assessments made by DCO HARPER and which went without critique by CO POWER, the only officer able to supervise DCO HARPER due to the latter's seniority. There were no '*partial remains of a child*' or '*shackles*' or '*cellars*' or '*bath*' or '*blood*'. There was no murder contrary to impressions created and not convincingly challenged.
- 2.10 The new senior officers, with the support of law officers, politicians and State officials, decided to provide an alternative perspective on the 'facts' in a press conference on 12 November 2008. Despite the clear evidence of, at best, misrepresentation in some States of Jersey Police press releases, CO POWER sought to play down the significance of the new revelations and to extol a media approach of a 'drip feed' of facts into the public realm over time. CO POWER's approach created fears in the new senior Operation Rectangle team of the type of cover-up and misrepresentation which CO POWER professed to oppose. CO POWER declined to attend the press briefing and, in so doing, to represent his Force at its lowest point during Operation Rectangle. CO POWER's suspension from duty followed later on 12 November 2008.
- 2.11 This Inquiry has gathered evidence from 94 witnesses and has carefully considered their motivations, where appropriate, in providing their evidence, particularly where they might stand to gain from CO POWER's difficulties. Whilst CO POWER declined to be interviewed by this investigation (on the basis that he was not able to secure appropriate legal representation), he provided a comprehensive 94 page witness statement in response to the large amount of material gathered by this Inquiry and presented to him by way of advanced disclosure. This disclosure was accompanied by our intimation of relevant 'issues' which we invited him to consider and address. We found CO POWER's statement

to be thoughtful, extensive and articulate. He fully and flatly denies any wrong doing on his part. CO POWER suggests that the ACPO/NPIA standards against which we have assessed his performance are not applicable to Jersey having regard to the context of the Island and the Chief Officer's role which he contends is unique from any Chief Constable position in the United Kingdom and CO POWER warns of the danger of equivocating standards applicable in a different jurisdiction. His witness statement helpfully follows the general structure of the terms of reference for Operation Haven and he offers answers to each of the queries raised. We dedicate a section of this Report to a more detailed summary of CO POWER's statement which helps inform our conclusions.

- 2.12 During the course of our investigation, thousands of States of Jersey Police e-mails relating to CO POWER were assessed by Operation Haven personnel. Two, in particular, are noteworthy for their inappropriateness. One on 23 February 2008 (the day of the significant 'find' at Haut de la Garenne) indicates at best, a flippant or dismissive attitude or at worst, a contemptuous attitude towards some elected politicians, but which on either interpretation set a poor example to DCO HARPER who read it. However, one dated 29 February 2008 contains 'joke' comments which are considered simply inexcusable by this Inquiry. This e-mail was sent from the Force e-mail system to a friend and former colleague of CO POWER in the United Kingdom. The inappropriateness of the e-mails is reflected in the charges suggested against CO POWER.
- 2.13 Operation Haven commissioned an independent company with relevant expertise to comment on the effects of Operation Rectangle on the reputation of the States of Jersey Police as measured through media volume and comment during the period when Operation Rectangle was active. It concludes that a positive impression was created of the Force, but a poor one was created of the Island and its institutions.
- 2.14 Whilst by no means the sole determinant of success, Operation Rectangle led to the investigation of 429 allegations made by 210 people and resulted in convictions of 2 defendants for 13 offences at Haut de la Garenne, for which they were sentenced to 2 years imprisonment and 2 years probation, respectively. One person was convicted of 19 offences elsewhere than at Haut de la Garenne and

received 15 years imprisonment. Two other persons await trial. The police costs of Operation Rectangle are estimated to be £6.665 million.

- 2.15 It will be noted that this Report only deals with those terms of reference that relate to supervision, critical incident management and media, but not the part-term of reference that relates to CO POWER's oversight of finance. A separate 'chapter' on that will be produced in due course and subject of a further report. The reason for the delay is that the States of Jersey Police commissioned a separate review of aspects of the financing of Operation Rectangle and which this Inquiry feels it is prudent to review before coming to any conclusions about the performance of CO POWER in supervising the finances allocated to Operation Rectangle.
- 2.16 As far as possible, this Inquiry has pursued lines of enquiry raised by CO POWER. At the time of writing this Report, we have been unable to interview a witness whom CO POWER clearly considers to be important to his case namely, Wendy KINNARD, the former Home Affairs Minister. Therefore, our conclusions bear the caveat that we reserve the right to amend our views and conclusions in light of any relevant evidence which Wendy KINNARD is able to provide when eventually she is interviewed.
- 2.17 Noting the above caveat, this Inquiry has presented the evidence gathered and our conclusions for review by **X** QC and **X** instructing solicitor, **TEXT REDACTED**. Their advice in respect of potential charges against CO POWER in terms of alleged failures in his performance and/or neglect of duty is described later in this Report. We have included their advice because we have assessed CO POWER's performance against United Kingdom standards having regard to the Jersey context and should also assess any alleged failings against the conduct standard which eminent Counsel advises would apply, on the facts presented, in the UK. It must, of course, be a matter entirely for the competent States of Jersey Authority to come to its own view on the evidence, conclusions and findings suggested by this Inquiry and on Counsel's advice.
- 2.18 Between 1 December 2008 and 31 July 2009, Operation Haven has cost the States of Jersey £405,000.

- 2.19 In coming to our conclusions on the performance of CO POWER during Operation Rectangle, this Inquiry has carefully considered the unique context of Jersey in terms of the size of the Force and its Chief Officer cohort, the relative dearth of experience of its Senior Investigating Officers, and the limitations of the resources at its disposal. We have also considered the explanations offered by CO POWER in his statement to Operation Haven especially in relation to the ‘political’ difficulties of making external appointments to the Force.
- 2.20 We have included these considerations in our assessment of CO POWER’s performance against the ACPO/NPIA standards relating to the investigation, management and supervision of suspected cases of homicide.
- 2.21 In addition, we have been careful not to ‘indict’ CO POWER – a serving officer – for failings which may be attributed to ex-DCO HARPER who is no longer a member of the Force. We consider it likely that had ex-DCO HARPER remained a serving officer a discipline enquiry would have considered his conduct. The conclusions we draw in respect of CO POWER stand on their own merit.
- 2.22 Below, we highlight each of the conclusions drawn from the evidence and provide a synopsis of how each conclusion was reached.
- 2.23 A similar approach has been adopted in respect of recommendations made as a result of our Inquiry.

Supervision

- **Conclusion 1**

- 2.24 **CO POWER’s appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an Historical Child Abuse Enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.**
- 2.25 The Murder Investigation Manual is prescriptive regarding the role of Chief Officers in the appointment of SIOs.
- 2.26 DCO HARPER had not undertaken the role of SIO for 16 years before Operation Rectangle and was untrained for the requirements of Operation Rectangle. There

were more appropriate candidates for the role of SIO already available from within the States of Jersey Police albeit, like DCO HARPER, they lacked experience. Their greater appropriateness stems from the fact that each is currently trained.

- 2.27 There was a further option for CO POWER to have obtained assistance from Devon & Cornwall Constabulary to supply a suitably qualified SIO under a Service Level Agreement in existence between the two Forces. This option was considered but not pursued by DCO HARPER. It is not clear from the evidence whether CO POWER was aware of the Service Level Agreement or that option at all.
- 2.28 A number of opportunities arose for CO POWER to ensure an appropriate SIO was appointed to Operation Rectangle but he failed to act on any of them and as the investigation continued, his culpability became a matter of performance failure rather than a mere error of judgement.
- 2.29 The reasons given by CO POWER for appointing DCO HARPER as the SIO include a reluctance within the States of Jersey to accept any appointments made outside of Jersey, a possible link between the professional standards (i.e. discipline) issues that existed in the Force and Operation Rectangle and the need for personal robustness in the SIO to resist political pressure. Also, CO POWER suggests that DCO HARPER had almost overnight become the international ‘face’ of the enquiry in the media and that CO POWER could not countenance a change of SIO midstream. He appears to suggest that no matter what the deficiency in qualification or the potential effect on Operation Rectangle, it was simply beyond consideration that DCO HARPER could have been replaced by a qualified investigator. This Inquiry does not agree these are sufficiently valid reasons for continuing with an untrained SIO at the helm of such a major inquiry.
- 2.30 The key decision about the appointment of the SIO is not documented in any policy books, day books or pocket notebooks that we have been able to locate. We consider this to be a pertinent omission.
- 2.31 We conclude that CO POWER did not meet the standards required of him in that he failed to ensure he appointed an appropriate SIO to Operation Rectangle; one

who had both the training and experience to be able to perform effectively in the role.

- **Conclusion 2**

2.32 CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.

2.33 Established best practice in respect of the management of any major investigation requires that clear strategic parameters are established at the outset in order to give proper direction to the investigation. CO POWER should have set strategic parameters for Operation Rectangle and agreed terms of reference with the SIO. We have found no evidence that he did either.

2.34 The revelation that the '*partial remains of a child*' had been discovered at Haut de la Garenne on 23 February 2008 was a major opportunity for CO POWER to provide clear and unequivocal direction to the investigation. This Inquiry can find no evidence that new or amended terms of reference were established or that CO POWER sought to ensure this was done. Indeed, CO POWER admits he did not know whether any terms of reference for Operation Rectangle existed.

2.35 We conclude that there was inadequate supervision by CO POWER and that he failed in the performance of his duty to ensure that adequate terms of reference were either created or adhered to.

- **Conclusion 3**

2.36 CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.

2.37 The Murder Investigation Manual is explicit in respect of the role of Chief Officers in major crime investigation. SIOs should be supervised and records kept of that supervision.

2.38 CO POWER's job description placed him under a duty to manage the effective investigation of crime with priority given to those crimes of greatest public concern.

- 2.39 CO POWER was the only person in a position to supervise DCO HARPER and it was the Chief Officer's responsibility to ensure that the Operation was being run to an acceptable standard.
- 2.40 This Inquiry has established and accepts that frequent meetings did take place between CO POWER and his Deputy. However, there were no detailed records kept of any briefings, meetings or other interaction between them and on that basis it is impossible to see any cogent evidence of CO POWER's supervision of DCO HARPER or Operation Rectangle.
- 2.41 This Inquiry concludes that CO POWER's supervision of DCO HARPER was deficient in a number of specific areas. For example; the use of Martin GRIME and his enhanced victim recovery dog; the provenance of Exhibit JAR/6; the relationship with the prosecution lawyers; and the media release in relation to suspects 'A'. In addition, it is a cause of concern to this Inquiry that CO POWER recorded so little of his decision-making. All in all, adequate records were not kept of their meetings and CO POWER's decisions. There is a lack of an auditable document trail to show a structured decision-making process. We have found that CO POWER had not countersigned a single policy decision to show any evidence of his involvement.

• Conclusion 4

- 2.42 **CO POWER made inappropriate use of the Force e-mail system.**
- 2.43 There are two examples of e-mail communications from CO POWER which this Inquiry finds to be inappropriate. Firstly, in an internal e-mail sent on 23 February 2008, when making reference to the electronic debate between politicians, he writes *'I think that all of our politicians have approached this investigation with honesty, openness, a desire to find the truth... and a solid determination to put political differences aside in the common interest... and so do my friends the elves and pixies'*.
- 2.44 Given the legitimate concerns of some politicians about the handling of Operation Rectangle, particularly by DCO HARPER, this was unprofessional and sets a poor example to colleague members of the States of Jersey Police who read it. One of

those was DCO HARPER, whom CO POWER was expected by politicians to be challenging about the Deputy's handling of the media.

- 2.45 The second example is an external e-mail dated 29 February 2008 sent by CO POWER to a friend, 'W' who resides elsewhere in the UK. CO POWER's e-mail says *'according to stories doing the rounds in the pubs, the abuse enquiry is a cover story; we are really selecting the winner of the world hide and seek championships. Or if you prefer what is the difference between a jersey royal and a jersey orphan?? Answer a jersey royal gets dug up after three months'*. This unprofessional comment by the Chief Officer can have no excuse or mitigation and suggests a deeply concerning attitude at such a critical time for his Force and the States of Jersey.
- 2.46 This Inquiry concludes that in each case, the e-mails sent by CO POWER were inappropriate and particularly so when sent over the Force network.

• **Conclusion 5**

- 2.47 **CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.**
- 2.48 It is accepted best practice for a close working relationship to exist between the SIO, his or her investigation team, and the prosecution lawyers appointed to the enquiry.
- 2.49 The problems that arose between Operation Rectangle and the legal team appointed by the States may be interpreted, in essence, as being personality-based issues between DCO HARPER and the prosecutors. Evidence of these difficulties is plentiful and detailed at length in the Supervision Section of this Report.
- 2.50 CO POWER was aware of developing problems soon after they arose. He does accept there were difficulties in the working arrangements with the law officers, and to his credit, he consulted with ACPO Homicide Working Group on how to improve the relationship with the lawyers.

- 2.51 We conclude that CO POWER was both over accommodating of his SIO's wishes and commensurately less than accommodating of the legitimate needs of the lawyers. He brokered the expectation of the lawyers by suggesting they should seek to build a relationship and gain favour with DCO HARPER through his support for a particular football team. The lawyers found that a less than a professional or satisfactory basis for developing a relationship with DCO HARPER. Rather, instructions should have been given to DCO HARPER by CO POWER to work effectively and productively with the lawyers.
- 2.52 This Inquiry finds that lawyers were not given appropriate access to material that they required until after the appointment of DCO WARCUP in August 2008. CO POWER was made aware of difficulties on a number of occasions, but we have found no evidence that he ever directed DCO HARPER to allow unfettered access to relevant material.
- 2.53 In June 2008 DCO HARPER publicly criticised the lawyers in the media as a result of a dispute between them over the charging of suspects in custody.
- 2.54 CO POWER was made aware and was required to attend the Attorney General's office as a result of the resulting furore. CO POWER offered little by way of explanation or remedy resulting in the Attorney General considering taking his own action.
- 2.55 This Inquiry has established that CO POWER did make some attempts to guide DCO HARPER's actions but we consider them to be inadequate and below the level of supervision reasonably required to effectively manage DCO HARPER in an enquiry of Operation Rectangle's significance.
- 2.56 It appears CO POWER preferred to try and 'ride things out' until DCO HARPER retired. In doing so, he permitted poor relations with the legal team to continue. We believe the ongoing difficulties between DCO HARPER and the lawyers could and should have been resolved by way of a directive from his supervisor. The only person in a position to do this was CO POWER and he failed to do so.

• Conclusion 6

- 2.57 **CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.**

- 2.58 This Inquiry concludes that the decision to dig at Haut de la Garenne was questionable based on the evidence available and DCO HARPER's initial view that there was 'not a shred of intelligence or evidence' to provide the grounds for doing so. Little additional evidence was forthcoming.
- 2.59 No record has been found as to whether DCO HARPER's initial view was subsequently referred to CO POWER for consideration when the decision to search was re-visited. Nevertheless, in all circumstances, this Inquiry believes it was reasonable to conduct the search and we do not attach formal criticism to ex-DCO HARPER or CO POWER for doing so. However, the risks – in terms of public and media speculation about police activity, if reported – should have been predicted and carefully planned for.
- 2.60 We have found no evidence that CO POWER applied his mind properly or at all to the implications of the search prior to its commencement. This Inquiry is left with the impression that CO POWER's passive acceptance of the opinion of the SIO was exacerbated by his own lack of experience. Nevertheless, in his role as Chief Officer, he should have provided strategic guidance to the SIO and ensured the hypothesis proffered for the search would stand scrutiny.
- 2.61 CO POWER asserts that he may not have had all the information he should have and that the decision was not primarily his. The lack of detail contained within Operation Rectangle's policy decisions for searching Haut de la Garenne provides no assistance in establishing whether CO POWER directed or supervised policy in this respect. The suspicion must be that he did not.
- 2.62 The deployment of Mr GRIME and his enhanced victim recovery dog also had a significant effect in terms of media, finance and investigative consequences. CO POWER did raise concerns as to his deployment and the cost of it with DCO HARPER but was all too readily satisfied with the limited explanation provided.
- 2.63 There is a lack of documentary evidence to show any intrusive supervision of the SIO with regard to the continued search. This Inquiry concludes that the actions of DCO HARPER and his management of Martin GRIME went unsupervised for some considerable time.

2.64 This view of this Inquiry is that CO POWER exhibited a naive approach in relation to the search of Haut de la Garenne. Had he considered the possible implications of the search, CO POWER may well have had cause to reflect on the need for a plan to manage the impact. There is no evidence to suggest that he did so.

- **Conclusion 7**

2.65 **The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.**

2.66 Whilst it is clear that Operation Rectangle was a very expensive operation and had a huge media footprint, this Inquiry has established that it had no obviously adverse effect on other day-to-day operations in the Force and crime reduction and detection performance.

2.67 We have found that Operation Rectangle was not discussed in detail within the scheduled strategic meetings at Force level. However, meeting minutes for March to June 2008 reflect that, despite the demands of the investigation, the ability of the Force to provide a 'normal' policing function was not affected. In July 2008, the matter of the impact of Operation Rectangle on staffing levels was raised. CO POWER responded recognising that supervision, quality control and very careful management would be required for the duration of Operation Rectangle.

2.68 CO POWER acknowledges the tensions between Operations Management and Operation Rectangle in relation to resources. However, open source evaluation of Force crime reduction and detection data does not reveal any drop in performance during the relevant period. CO POWER suggests it that in the main Force Performance was maintained without detriment to the community. Operation Haven has found no evidence to contradict this standpoint.

Critical incident

- **Conclusion 8**

2.69 **CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the 'find' at Haut de la Garenne on 23 February 2008.**

- 2.70 This Inquiry finds that the command and control structure for the management of Operation Rectangle did not comply with the standards set out in the relevant professional practice guide and that CO POWER is culpable for the failures of the States of Jersey Police to establish a Gold Group.
- 2.71 It is a recurring theme in their accounts that both CO POWER and DCO HARPER considered it undesirable to establish a Gold Group due to the allegations of establishment collusion, conspiracy and cover-up. However, there were feasible alternatives to Gold Group membership which did not involve those whom CO POWER and DCO HARPER were reluctant to appoint. A Gold Group could have been successfully convened.
- 2.72 The formation of a Gold Group is normal practice in critical and major incidents and DCO WARCUP did precisely that when he took up post following the spirit of ACPO guidance and practice without apparent difficulty. CO POWER would have it that it was at his direction that the Group was set up but on balance, this Inquiry accepts it was at the instigation of DCO WARCUP.
- 2.73 It is a fact that the ACPO Homicide Working Group did not make the important recommendation about a Gold Group within their reports, although we are satisfied the issue was discussed with CO POWER. We conclude that the advice of the ACPO Homicide Working Group in Operation Rectangle was sometimes ambiguous, either in the manner given or interpreted, and this created a false sense of security for CO POWER.
- 2.74 However, this Inquiry does find that CO POWER was ultimately responsible for ensuring a Gold Group was created but that he failed to put one in place for this major enquiry; one which required the full and proper engagement of CO POWER to ensure its smooth running.

• Conclusion 9

- 2.75 **Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.**

- 2.76 There can be no question that Operation Rectangle was a critical incident in view of the likely significant impact on the confidence of victims, their families and the community. It was declared as such on 17 December 2007.
- 2.77 DCO HARPER held the view that there was no risk of community tensions and that a CIA was not required since this was only ‘technically’ a critical incident and countermanded the decision of 17 December 2007. He undertook to review his position as the enquiry progressed but did not do so.
- 2.78 Thus, a CIA was not considered or completed until 19 March 2008 having been recommended by the ACPO Homicide Working Group.
- 2.79 To the credit of various members of the Operations Management Team, the absence of a CIA was raised at their meetings but despite the advice of trained staff within the States of Jersey Police, DCO HARPER chose to progress the investigation without proper regard for their professional advice.
- 2.80 CO POWER accepts he was not familiar with the concept of CIAs and attempts to argue that a CIA was not a matter for his concern, trying to relinquish responsibility to DCO HARPER whom he identifies as a ‘Chief Officer’ for the purpose of those guidelines. We do not find this attempted abrogation acceptable.
- 2.81. CO POWER and DCO HARPER have both fallen short of the standards expected of them but in this Inquiry’s view. CO POWER’s position effectively amounts to conceding that he did not know what a CIA was, refusing to consider whether it was of relevance and passing responsibility post facto to DCO HARPER. In our view CO POWER failed to supervise or give guidance to DCO HARPER whilst attempting to absolve himself of responsibility.

• **Conclusion 10**

- 2.82 **CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.**
- 2.83 Given the resistance from CO POWER and DCO HARPER to the creation of a Gold Group as suggested by the ACPO Homicide Working Group in February 2008, it appears a compromise was reached whereby an IAG was established as an alternative. CO POWER and DCO HARPER agreed that it would perform

some of the functions of a Gold Group, albeit neither had knowledge or experience of Gold Groups or IAGs.

- 2.84 Such a compromise concerns us. This Inquiry finds that the functions and expectations of the IAG recommended by the ACPO Homicide Working Group and particularly how the IAG might fulfil some of the functions normally within the remit of the Gold Group, were never made clear to the IAG members.
- 2.85 Unfortunately, those subsequently appointed as IAG members were given little direction, guidance or support and were unsure of their role and what part they actually had to play. This Inquiry believes that an untrained and inexperienced IAG expected to fulfil additional, unspecified strategic goals normally associated with a Gold Group could never have been effective. The members of the IAG were committed and passionate in their attempts to fulfil their role but the lack of input and clarity experienced by them exacerbated their frustrations and eventually led to a breakdown of trust with the Force.
- 2.86 We are satisfied that CO POWER initiated the establishment of the IAG, although we conclude the execution was half-hearted, ‘tick-box’ and ineffectual. In addition, the composition of the IAG should have reflected the community affected by the investigation but the selection of individuals identified to form the Group was not necessarily independent giving rise to the risk of the IAG being labelled an ‘old boy’s network’.
- 2.87 DCO HARPER chose to chair the IAG but this practice does not conform to the standards against which Operation Rectangle is compared. It would be usual for the SIO to brief the IAG but not to chair it. DCO HARPER’s concerns of corruption and a lack of independence affected his actions throughout his entire time as SIO, yet despite that neither he nor CO POWER gave consideration to applying either risk assessment or formal vetting processes to the selection procedure for members of the IAG.
- 2.88 It is a common theme raised by members of the IAG that they were lacking in understanding of what function they were supposed to be providing and that members were given little or no support in resolving those issues they raised with CO POWER and DCO HARPER. This Inquiry finds on the basis of the evidence

gathered, that IAG members were entirely justified in feeling as they did and that they were bound to fail to achieve their objectives – advising and challenging the States of Jersey Police in its management of the critical incident, Operation Rectangle.

• **Conclusion 11**

- 2.89 **CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.**
- 2.90 We have earlier concluded that CO POWER should be called to account for failure in performance of his duty to establish a relevant, supported IAG with clear terms of reference. However, this separate issue is concerned with whether or not he dealt with the concerns raised by the IAG, having been set up in the form they were.
- 2.91 CO POWER encountered difficulties relating to the perception of the IAG by States' members who saw it as a threat, conflicting with their role as elected members. It is also true to say that CO POWER had encountered resistance throughout from the Attorney General who was not convinced of the need for such a body and disputed the relevance it may have to an investigation in Jersey. His concerns become more overt following the publication of a newspaper advert placed by the IAG which was interpreted as a public appeal which might 'contaminate' potential jurors and prejudice future proceedings.
- 2.92 When the Attorney General's views became known it gave rise to complaint from members of the IAG who were annoyed at how they felt they were being misrepresented in their actions. CO POWER responded in recognition that managing the Jersey media was difficult and thanked the IAG for their time and involvement in what he described as a difficult task.
- 2.93 A situation developed where the members of the IAG felt unsupported and were unsure of what their actual role was and this resulted in representations being made to CO POWER who responded to X immediately. He purported to recognise the difficulties the IAG had encountered and 'identified' with their concerns. He thanked them for the effort and support that the group had

shown and recognised their worry that they considered their task to be ‘hard’ and ‘ambiguous’, about which there are conflicting views, and the uncertainty as to the appropriate way forward. He also recognised the need for a re-launch and re-affirmed his position that the IAG had an important role to play in his view. He suggested a meeting at which DCO WARCUP would be present and this did subsequently occur.

2.94 It cannot be said that CO POWER fully confronted any of the issues necessary in order to restore the IAG’s confidence but he had at least taken some action in an environment where support was less than forthcoming from senior colleagues in the States. In all the circumstances, and taking into account our previous conclusion on the subject of the IAG, we do not conclude that he should be regarded as culpable on this point.

• **Conclusion 12**

2.95 **CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.**

2.96 The SIO, DCO HARPER, consciously managed Operation Rectangle as a single-agency enquiry and this was endorsed by CO POWER who contends he did consider the concept of a partnership based approach for Operation Rectangle but both he and DCO HARPER were influenced by their belief in the existence of corruption in the Island. This Inquiry accepts CO POWER’s view was honestly held that he felt constrained by fears of corruption. However, a thoughtful and measured approach could have alleviated some or all of his concerns and an officer of CO POWER’s experience should have been capable of developing such an approach.

2.97 The single-agency approach was in sharp contrast to accepted guidance which recognises a multi-agency strategy as being the most effective and appropriate method of dealing with such allegations. It is essential for partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation.

2.98 In this Inquiry's view, the limitations of a single-agency investigation were avoidable as other solutions could have been considered. We note and give credit for, the involvement of the NSPCC.

2.99 This Inquiry has seen no properly recorded decision-making processes in Operation Rectangle justifying the rationale for deliberately acting outside best practice guidance, most of which arises from significant cases of child abuse and homicide in the UK.

• **Conclusion 13**

2.100 **CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.**

2.101 The importance of carrying out an independent review of major crime investigations is recognised as good practice throughout the Police Service in the UK. The Murder Investigation Manual is explicit in the purpose and objectives of a review and sets out the timing of when reviews should be conducted.

2.102 It is evident that throughout Operation Rectangle DCO HARPER was disinclined to agree to a review of the Operation despite the opportunities which presented themselves. There cannot be any sensible objection to a review, in our opinion.

2.103 Ambiguity and confusion arose as to the role of the ACPO Homicide Working Group, particularly in relation to their term of reference, '2c; to quality assure the investigation'. This was not a usual function of the ACPO advisers and there is no clarity as to how this term became included. The ACPO Team state they could not have undertaken a review and suggest they also advised the States of Jersey Police that a Review Team conduct a full review. However, not until their last report was completed in June 2008 does a recommendation appear that the Metropolitan Police should provide a review team. It is evident to us, on the balance of the evidence, that CO POWER was reassured that they were providing quality assurance to the investigation and that he relied on that being the case even though that was not one of their functions.

2.104 CO POWER could have been more challenging over the position taken on reviews by DCO HARPER and CO POWER appears to have placed too much reliance on

the 'expertise' of the ACPO Homicide Working Group. He is ultimately responsible for ensuring that a proper review of Operation Rectangle took place but it is accepted that his lack of experience combined with the relative expertise of the ACPO Homicide Working Group created a false sense of security. In these circumstances CO POWER should not be criticised for failing to commission a major crime review but the Inquiry feels he would benefit from training and advice in this area and in a number of the related professional disciplines associated with major crime inquiries.

MEDIA

• Conclusion 14

- 2.105 **CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.**
- 2.106 Arguably, no other element of Operation Rectangle had a greater impact on the States of Jersey Police and the Island than the media attention after 23 February 2008. There is no doubt that following the 'find' of a suspicious item on that date, media coverage reached an unprecedented level for the Island of Jersey.
- 2.107 Had a structured communication strategy and strategic co-ordinating process been established, the media would have been better managed. There was no Gold Group or other strategic co-ordinating group in place throughout the time that DCO HARPER was SIO for Operation Rectangle.
- 2.108 The Chief Executive to the Council of Ministers created what was in effect a civilian Gold Group when Operation Rectangle became a homicide investigation which CO POWER recognised was standard good practice. It is inexplicable, therefore, why he did not ensure appropriate structures were in place for the police oversight of Operation Rectangle.
- 2.109 In his witness statement to this Inquiry, CO POWER makes little reference to the strategic management of the media. Yet, without a strategic framework guiding communications activity, major criminal investigations can easily become subject to sensationalist, inaccurate, distorted and unbalanced media reporting, all of

which can have a negative impact upon victims and the confidence vested in the enquiry team by the general public.

- 2.110 CO POWER comments on the existence and formulation of a Gold Group following the appointment of DCO WARCUP, but he offers no explanation in his statement as to what framework was managing or co-ordinating any communication or media strategy before DCO WARCUP's appointment.
- 2.111 CO POWER was responsible for ensuring a strategic co-ordinating body was created for the Operation Rectangle investigation. We can find no evidence that he did so. We conclude he did not consider the implications of failing to form any strategic oversight body in relation to media management.
- 2.112 This Inquiry concludes that CO POWER's management of the media, directly or indirectly, was sufficiently sub-optimal to merit disciplinary proceedings being taken against him for neglect of his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.

• **Conclusion 15**

- 2.113 **CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.**
- 2.114 Established good practice suggests that both the Historic Child Abuse Enquiry and the post 23 February 2008 homicide enquiry required formulation of considered and well-constructed media strategies. Such strategies would have facilitated professional interaction with the media, maintained confidence in the police within the community, ensured confidence within the investigation team and maximised the opportunities for witness and victim identification.
- 2.115 Although a Policy Book was commenced in October 2007 in relation to media issues, the entries are brief and not a proper substitute for a media strategy. This Inquiry suggests that following the decision to release to the public information that a child abuse investigation was underway, the SIO and CO POWER, as the SIO's supervisor, should each have ensured that a comprehensive media strategy was in place.

- 2.116 Ultimately, responsibility for the effectiveness of the media strategy rests with CO POWER. Any strategy should have identified the need to protect the victims and witnesses from media intrusion, to protect the investigation from prejudicial reporting and have identified the need to minimise any media coverage that could prejudice legal proceedings. It should also have considered the needs of key external stakeholders in order to reduce the potential for discord.
- 2.117 The opportunity existed for CO POWER to make enquiries into the media strategy from the outset and, certainly, from when the operation was made known to the public in November 2007. That he did not, especially in view of the advice he gave to the States after 23 February 2008 recognising there would be significant media management demands upon the Island's government, is inexplicable.
- 2.118 The inevitable conclusion to be drawn is that CO POWER did not follow his own advice and that he failed to ensure that Operation Rectangle was provided with a well constructed and documented media strategy. In the opinion of this Inquiry the media strategy needed to be broader than, but inclusive of, the criminal investigation and that is a wider responsibility than the SIO's. There was a need for co-ordination by CO POWER which we find little tangible evidence of.
- 2.119 CO POWER should have understood the necessity for a media strategy when Operation Rectangle became 'overt' in November 2007 and again immediately after it was declared a critical incident in December 2007 and again after the 'find' on 23 February 2008. He should have ensured that one was compiled swiftly and with the necessary expert input. We find no evidence that he did so.

• Conclusion 16

- 2.120 **CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008. This strategy should have been regularly reviewed and was not.**
- 2.121 There was a complete absence of a media strategy prior to 23 February 2008 and in the months following, there existed only a poor and sparsely constructed document accompanied by a 'States-Police' protocol established at the apparent suggestion of the Chief Executive to the Council of Ministers.

- 2.122 On 1 March 2008 a media strategy was completed by the Jersey Police Press Officer. It was underpinned by the comment *'this strategy will be constantly reviewed and may be amended to take account of changing circumstances'*. It contains appropriate, adequate, aims and this Inquiry does not criticise them. The issue is that they were either not followed through or were pursued to excess.
- 2.123 The media strategy appeared to be cobbled together rapidly and reactively from a generic document and its major weakness was in not anticipating potential risks and outcomes associated with tactical actions or how these would be addressed.
- 2.124 The media strategy was not completed until 1 March 2008. It did not direct, guide or accord with the actions taken by DCO HARPER and before its completion, a number of significant media releases had been made by the States of Jersey Police. It was not updated after 13 March 2008, demonstrating a failure of the commitment to constantly review the strategy in order to take account of changing circumstances.
- 2.125 The absence of a strategic plan made the management of communications in the context of a high profile major investigation more difficult and created an environment in which media coverage was unmanaged, at times inaccurate and, thereby unhelpful to the investigation. Indeed, DCO HARPER appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy.
- 2.126 Within days of the 23 February 2008 'find' at Haut de la Garenne, the States of Jersey Police became subject of criticism for the content and method of the media releases. In light of the political criticism that the Force was attracting in the early weeks in March 2008, along with the advice provided by the ACPO Homicide Working Group and the presence of the communication protocol with the States, CO POWER should have recognised the need for a sophisticated media strategy that would guide the States of Jersey Police through the difficult and intense media attention during this most vulnerable period. Unfortunately, evidence of CO POWER's influence is absent throughout and leads this Inquiry to conclude he failed to intervene and retrieve the media debacle.

- 2.127 Ex-DCO HARPER professes that the media strategy was subject of many discussions between him and CO POWER and that he knew they were ‘operating in a hostile environment’. If this is the case there can be no doubt as to the duty of CO POWER to ensure that the strategy created on 1 March 2008 was fit for purpose. It is telling that the issue of the media strategy did not again feature in CO POWER’s activities until 25 June 2008 when it did so following a media release by DCO HARPER in relation to the charging of two suspects.
- 2.128 On 30 June 2008 CO POWER did recognise that some action was required from him in respect of media policy after robust challenge by the Attorney General. Sadly, CO POWER seemed to believe that a copy of the ACPO media policy and items from HOLMES ‘might do’. This was indicative of a naive detachment from, and an apparent lack of understanding of, the dire implications of the developing media situation.
- 2.129 The Attorney General continued to raise concerns about the content of the media strategy, providing opportunity for the Chief Officer to address this important matter and to satisfy the Attorney General that appropriate measures were in place. Despite CO POWER’s assurances, the evidence suggests that he did not do so.
- 2.130 This Inquiry can find no evidence that CO POWER was aware of the media strategy until it was given to him as disclosure material by this Inquiry. If accurate, this is surely the strongest indictment of his failure to manage the media aspects of Operation Rectangle.

- **Conclusion 17**

- 2.131 **CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.**

- 2.132 There were a number of significant events prompting what this Inquiry considers were inappropriate or ill considered media releases: which contained the following phrases, assertions or actions:

- the discovery of the suspicious ‘fragment’ at Haut de la Garenne on 23 February 2008

- conferences led by DCO HARPER with Haut de la Garenne as the backdrop
- the States of Jersey Police attempt to clarify previous releases yet still confirming that '*partial remains of what is believed to be a child*' had been recovered
- the confirmation that partial access to a 'cellar' had been gained
- the 'cellar' being described as 'an underground room with unrendered walls'
- the description as 'cellars' the voids under the flooring
- that police had uncovered what some of the witnesses have referred to as a trapdoor
- assertions that 'the dog indicated to two different spots within the bath' and that presumptive tests for '*blood*' have given a positive result'
- Statements that forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two 'milk teeth' from a child or children.

2.133 There is no doubt, in our view, that the States of Jersey Police were misquoted on a number of occasions. CO POWER and ex-DCO HARPER will contend that they did attempt to correct these mistakes. However, the lack of media strategy or strategic oversight from CO POWER made this task much more difficult and created the environment in which misquotation was more likely.

2.134 On 26 February 2008, CO POWER reassured the Chief Executive that he (CO POWER) was experienced in media management in a crisis. With this self professed experience, it is hard to understand why CO POWER did not discharge his responsibilities by giving strategic direction to the enquiry in general terms and why he did not specifically moderate the tone of the media releases.

2.135 From the outset, CO POWER was asked questions about the releases and what was being reported in the media by Island politicians. It is not unreasonable to conclude that these enquiries were an indication of the reaction to what had been released and should have prompted action from CO POWER to set the record straight and to ensure that DCO HARPER was being appropriately supervised. The only evidence we have been able to find of any action by CO POWER to

address concerns about media reports is an e-mail to the Home Affairs Minister but which was dismissive and complacent in tone.

- 2.136 It was suggested by the Chief Executive and the Home Affairs Minister that future press conferences should be in a more controlled, formal setting. They sought assurance that in future all announcements and responses to questions would be more circumspect to avoid speculation. It was suggested that CO POWER could take the lead, wearing uniform and working from a conference room.
- 2.137 CO POWER responded by e-mail in support of the way his SIO was handling the media and declined the invitation to go before the media, thus providing further evidence that his grip on Jersey's biggest investigation in living memory was inadequate.
- 2.138 On 4 March 2008, CO POWER met with the Attorney General during which a range of issues concerning the Attorney General's belief that the media reporting to date would result in abuse of process arguments, on the basis that a fair trial would be prejudiced, was raised.
- 2.139 CO POWER told him that DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, CO POWER, could exercise. We find this unacceptable. This Inquiry believes that CO POWER should have done all within his authority to modify DCO HARPER's media approach and to provide strategic direction as to how Operation Rectangle should progress, especially in media terms.
- 2.140 This Inquiry can find no evidence that any steps were taken to address media misreporting. In his statement CO POWER suggests little criticism of the content of DCO HARPER's media releases and leaves the impression that he, as Chief Officer, either agreed or condoned their release. Alternatively, he failed to supervise DCO HARPER's work or perhaps had no real grip on the media 'strategy' at all.
- 2.141 The content of the press releases has come under much criticism from media experts, senior police officers and politicians alike. This Inquiry finds that CO POWER made little, if any, effort at 'quality assurance' and allowed the essence of the releases to remain unchecked, even in light of the furore that

surrounded them. CO POWER also failed to 'quality assure' the subsequent coverage from the media as it misrepresented the facts. Minimal challenge or attempts at correction were made and the news media at large were left unfettered in their sensationalism and speculation.

- **Conclusion 18a**

2.142 **CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.**

- **Conclusion 18b**

2.143. **CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.**

- **Conclusion 18c**

2.144 **CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.**

2.145 A letter from Dr X at the Oxford laboratory was sent on 1 May 2008 addressed to DCO HARPER confirming the work carried out on Exhibit JAR/6 and the conclusion that it was not bone but almost certainly wood.

2.146 On 5 May 2008, Senator James PERCHARD raised with CO POWER the matter of there being a rumour in existence that stated the skull was not human and that maybe, when the time is right, it would be advisable to put the record straight 'publicly' on this. The response from CO POWER was '*I think that it will be possible to do this as part of a general release relating to the scientific results of more recent finds when these are available*'. Whilst this approach sounds reasonable, this Inquiry can find no evidence that the States of Jersey Police ever did make such a 'general release' prior to the press conference on 12 November 2008.

2.147 DCO HARPER would have it that he did not receive Dr X letter of 1 May 2008, but this Inquiry has established that Dr X e-mailed

DCO HARPER a copy of the letter on 17 May 2008. If there had been any room for doubt beforehand, there could now be no doubt that from that time DCO HARPER knew Exhibit JAR/6 was not bone.

- 2.148 Even so, on 18 May 2008, DCO HARPER formulated a press release for circulation which summarised the findings of the examination of Exhibit JAR/6 by the laboratory. He is equivocal in his reference to Exhibit JAR/6 implying that the laboratory had not definitively stated it was not bone and instead focussed on their comment that if there was a need to show definitively what it was it would require further examination.
- 2.149 DCO HARPER recounts in the same press release, details of recent finds – 20 pieces of bone and six children’s teeth – which were all found in what he was calling the ‘cellar’ area. He spoke of expecting the results of forensic tests to date them in the next week stating *‘at that stage we will know more about the possibility that there might have been unexplained deaths of children within Haut de la Garenne’*. In this way, he had effectively glossed over the issue of Exhibit JAR/6 and encouraged the very worst impressions in the minds of the public and particularly the media.
- 2.150 Nevertheless, Senator James PERCHARD persisted in his attempts to have the status of Exhibit JAR/6 made subject of a public statement in the Senate. CO POWER merely advised the Home Affairs Minister Wendy KINNARD to comment that many items had been sent for examination, but by the time she came back to him and pointed out that she would be asked exactly when DCO HARPER knew it was not bone, he had left Jersey for a conference on the Isle of Man which may account for the lack of a response from him.
- 2.151 On 20 May 2008, whilst at this conference, CO POWER says that someone told him that the first ‘find’ was a piece of coconut and that this came as a total *‘bolt from the blue’*. In light of the sequence of events outlined above, this Inquiry is sceptical that CO POWER had no inkling of this, especially bearing in mind the existence of daily meetings between himself and DCO HARPER. Nevertheless, it appears that by 20 May 2008 – at the latest – CO POWER accepts that he was now fully aware doubts existed about the nature of Exhibit JAR/6.

- 2.152 CO POWER explains that he had discussions with DCO HARPER and Senator Wendy KINNARD where he sought more information and advised on ‘holding lines’ to take with the media. He states that he asked DCO HARPER directly about the doubts over the first ‘find’ and was told that there had been confusing messages coming from the Laboratory, but that DCO HARPER would ‘take full responsibility’.
- 2.153 If CO POWER’s recollection is correct, he had grounds to suspect that Exhibit JAR/6 was not human, yet permitted or failed to correct DCO HARPER’s continuing misleading statements about the scientific evidence being ‘inconclusive’ rather than present the true situation to the public.
- 2.154 CO POWER’s method of dealing with this was to call for a report from DCO HARPER on the matter whilst advising Chief Executive Bill OGLE and Home Affairs Minister Wendy KINNARD to seek to close down further discussion on the matter and not make further comment on the basis she was waiting for a report on the matter.
- 2.155 This Inquiry concludes this attempt to ‘close down further discussions’ was unhealthy procrastination. An open and transparent approach would have been to report what was known at that time. CO POWER failed to do so.
- 2.156 Even as late as 8 June 2008, CO POWER was enquiring of DCO HARPER as to the current position in relation to the fragment and asking ‘are we accepting that it is not human or do we see the results as inconclusive?’ DCO HARPER replied ‘we see the results now as inconclusive’. This inaccurate view was not challenged by CO POWER, who we have good reason to believe, knew this was not a fair or wholly truthful stance to maintain and who continued in his failure to effectively supervise DCO HARPER on the issue. If CO POWER was in any doubt, should have sought an independent review. He did not do so and the police and politicians were being misled.

• **Conclusion 19**

- 2.157 **CO POWER created and/or permitted an environment where lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that**

CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.

- 2.158 The events that preceded the suspects 'A' incident are detailed in the body of the Report and are described elsewhere in this summary. They concerned the breakdown in relationships between the prosecution legal team and DCO HARPER as SIO, particularly in relation to the media release made by DCO HARPER on 24 June 2008.
- 2.159 DCO HARPER dictated that media release to **TEXT REDACTED** following the release from custody of the suspects 'A'. It was pejorative in tone and sought to make clear that the only reason that the States of Jersey Police were not able to charge suspects was because of the actions of the lawyers to the enquiry. He ignored advice to take time to consider the contents of that release prior to issue.
- 2.160 Unsurprisingly, the media seized upon the issue and pursued with the Attorney General the suggestion that he interfered with case to prevent charges being brought. He in turn requested a written explanation from CO POWER as to why the release was made along with an assurance that similar attacks on the prosecution would not be repeated. He made it clear that the conduct of DCO HARPER had seriously jeopardised current prosecutions describing the release as *'irresponsible and damaging to the criminal justice process in Jersey'*.
- 2.161 CO POWER comments in some detail on the incident in his statement, recognising the impact of DCO HARPER's release and the associated problems it caused. To his credit, it could be argued that CO POWER took action when confronted by the Attorney General. He explains his recognition of a need for a recovery plan and that he engaged in a face to face meeting with DCO HARPER. CO POWER instructed DCO HARPER in his future dealings with the Law Officers and the method by which press releases would now be made. All in all this demonstrated more positive and intrusive supervision than at most other times throughout Operation Rectangle, in our view, evidencing some level of admonishment of DCO HARPER.

- 2.162 It appears to this Inquiry that the relationship between DCO HARPER and CO POWER is central to understanding how the many problems involving DCO HARPER were managed. If one is to believe the regular meetings between the two covered all aspects of Operation Rectangle, including the media releases, then one should expect that CO POWER would be addressing each issue as it arises and that his level of supervision would be commensurate with the cumulative effect DCO HARPER was having on Operation Rectangle.
- 2.163 Had CO POWER ensured firmer control of DCO HARPER, particularly in the area of media management, then it is certainly likely, in the view of this Inquiry, that the entire furore surrounding Operation Rectangle would have been avoided. Nevertheless, this Inquiry accepts that, in this isolated case, CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008, and accordingly that he should not be found to be culpable for it.

2.2 Recommendations

- **Recommendation 1**

- 2.2.1 The States of Jersey Police considers secondments of trained SIO's to United Kingdom forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.**
- 2.2.2 States of Jersey Police have committed to sending their officers to the UK for SIO training and there are currently 6 officers who have completed various aspects of that training. It is in no way intended to have negative connotations for the States of Jersey Police in commenting that the opportunities for those officers to exploit that training and develop their skills is limited. There is a real risk that the time elapsed between attending a training course and being called upon to exercise the skills learnt is so great that the officer could no longer be considered competent. The development of secondments to UK Forces for trained officers would safeguard the investment in their training and ensure that the States of Jersey Police is well placed to respond to major incidents.

- **Recommendation 2**

2.2.3 The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined by the ‘Practical Advice on Tasking and Co-ordinating 2006’.

2.2.4 Best practice suggests that Operation Rectangle should have been managed and resourced in line with the National Intelligence Model and, in particular, the Tasking and Co-ordinating process. This is a fortnightly meeting of managers and partner agencies whose aim is clearly explained in Practical Advice on Tasking and Co-ordinating 2006, *‘the T&CG [Tasking and Coordinating Group] meeting is the central point of the tasking and co-ordination process and is essential for turning intelligence into action. The T&CG makes decisions between competing demands on resources and also provides direction to staff. In addition to managing resources the T&CG will agree the priority with which crime and disorder problems should be dealt. An efficient T&CG will prompt focused activity through the tasking and co-ordination process’*. This appears not to have been applied during Operation Rectangle and it is recommended that future operations are subject of this process in order to reap the benefits it can yield.

- **Recommendation 3**

2.2.5 The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.

2.2.6 It is a common feature that none of the policy books for Operation Rectangle provide any indication of having been examined by CO POWER. This Inquiry accepts that, unlike policy books in use in the UK, the States of Jersey Police policy books are not designed with space for a supervisor to ‘sign and check’. The States of Jersey Police may wish to consider revising their policy books to incorporate this element. It is obviously good practice for the SIO’s supervisor and/or Chair of the Gold Group to check policy documents so as to be reassured of the SIO’s competence and the planned direction of the enquiry. In the view of this Inquiry, this good practice should be made a requirement. It is recommended that the States of Jersey Police review and implement appropriate policy as well as redesigning the policy books in use to facilitate formal recorded examination of them and the decisions contained therein.

- **Recommendation 4**

2.2.7 The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.

2.2.8 At places in his statement, CO POWER demonstrates he had some understanding of the concept of critical incident management and suggests that he raised the subject of development and implementation of processes for critical incident management at some time at the Force Executive Strategy Group. However, he concedes that work on this issue did not proceed effectively. We consider that implementation and training in the application of these guidelines is crucial to how States of Jersey Police identify and assess critical incidents. We recommend that the States of Jersey Police adopt the ACPO/NPIA guidance, implementing it and provide training to ensure it is embedded and understood throughout the Force, including Chief Officers.

- **Recommendation 5**

2.2.9 The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIO's.

2.2.10 Policy Books are essential for recording decisions as to why certain actions were or were not taken and why particular decisions were made. Policy Books are essential to demonstrate the integrity of an investigation. Professionally used they are a means by which any manager of the SIO, Chair of a Gold Group, other Chief Officer, or those charged with the review of an investigation can examine the 'heart' of the investigation, hypotheses and lines on which it is run. SIOs and other officers such as media officers and forensic scene managers should also become conversant with the use of policy books in appropriate cases. For these reasons we recommend that the States of Jersey Police review policy and procedure in respect of the use and completion of Policy Books.

- **Recommendation 6**

2.2.11 The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedures are fit for purpose.

2.2.12 The ACPO policy is unequivocal in that following a homicide, a CIA will be completed jointly between the SIO and local uniform commander within 4 hours of the first report. This was not done in the case of Operation Rectangle. DCO HARPER held views that were very different from other trained and better informed officers and CO POWER sought not to involve himself in the matter. The result was that no CIA for Operation Rectangle was ever promulgated across the Force when it was needed and those better qualified than DCO HARPER were ignored in their attempts to remedy the situation. There was a demonstrable lack of understanding at senior level of the purpose of a CIA and its application in an investigation of this nature. For this reason, we recommend that the States of Jersey Police should review their policies and procedures in respect of Community Impact Assessments to ensure they are fit for purpose.

- **Recommendation 7**

2.2.13 The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.

2.2.14 The use of IAGs has become established best practice throughout Police Forces in England, Wales and Northern Ireland. When comprised of members who reflect the make-up of the community in which they live, IAGs can be a valuable resource in the investigation of major crime, particularly in the representation of minority groups where they may highlight sensitive or other issues which would be of importance. For IAGs to be effective, they need to be properly structured with members properly briefed and fully aware of their role. The advantages of developing such a structure in advance of a specific need are obvious. Particularly, it would avoid the diversion of resources away from the investigation in order to establish the IAG, allowing members to become involved and

comfortable in their role and, most importantly bearing in mind the experience of Operation Rectangle, would provide for other interested parties, such as the Law Offices and States' Politicians, to become familiar with the Group and the beneficial function it can perform. When not engaged in critical incident management IAGs perform other valuable functions such as advising on diversity training, the fairness of 'stop and search' and the policing of minority communities. We recommend that the States of Jersey Police give consideration to establishing an IAG in Jersey.

- **Recommendation 8**

2.2.15 The ACPO Homicide Working Group learns lessons from Operation Rectangle in order to improve its support to senior investigating officers in the future. In particular, it should ensure clarity about what is understood by its quality assurance role, documenting all recommendations it considers appropriate to the needs of the investigation (not necessarily of the SIO or Chief Officer) and preventing circumstances which could give rise to any intimation of a possible conflict of interest for advisors and mentors.

2.2.16 CO POWER placed great reliance on term of reference 2c) of the ACPO Homicide Working Group which he believed would result in the quality assurance of Operation Rectangle whereas members of the ACPO Homicide Working Group have confirmed this was not a function they had ever intended, or had the capacity, to fulfil. We have found that not all recommendations made by the ACPO Homicide Working Group were documented at the time they were discussed with CO POWER and/or DCO HARPER, for example the recommendation that Operation Haven be subject to formal review. We have also encountered the perception of a possible conflict of interests in that a member of the ACPO Homicide Working Group was a candidate for the position of an officer he was mentoring which was to become vacant upon that officer's retirement. We recommend that the ACPO Homicide Working Group learn the lessons arising so as to avoid repetition in any future deployment.

3. The supervision of Operation Rectangle by Chief Officer POWER

3.1 Introduction

3.1.1 Prove or disprove whether Chief Officer Graham POWER's performance met the ACPO/NPIA standards and guidance in relation to his supervision of Operation Rectangle.

3.1.2 The following six key factors have been identified as pertinent in assessing CO POWER's supervision of the inquiry. These factors are important for the reasons set out in subsequent paragraphs.

- The appointment and retention of DCO HARPER as the Senior Investigating Officer (SIO) for Operation Rectangle
- The terms of reference for, and strategic direction, of Operation Rectangle
- The day-to-day supervision by CO POWER of DCO HARPER in relation to Operation Rectangle
- The supervision by CO POWER of DCO HARPER in respect of his relationship with the prosecution legal team
- The justification for the search at Haut de la Garenne
- The management of Operation Rectangle within the normal day-to-day operations of the States of Jersey Police.

3.1.3 This Section should be read in conjunction with the Supervision Timeline which highlights key events relating to this Section.

3.2 The appointment and retention of DCO HARPER as the Senior Investigating Officer (SIO) for Operation Rectangle

- 3.2.1 The standard against which CO POWER's performance has been assessed is set out in the Murder Investigation Manual produced on behalf of the Association of Chief Police Officers (ACPO) by the National Policing Improvement Agency (formerly known as National Centre for Policing Excellence). The Manual was first published in 1998 and last updated in 2006; the latter version is the one Operation Haven has applied. It is considered by ACPO to be the definitive guide on homicide investigation and is used to underpin the training of SIOs and is also relevant to the investigation of all types of major crime. It explicitly sets out the roles and responsibilities of the SIO, the strategic management of homicide and major incident investigations, the role of chief officers, major crime reviews, working with other agencies, investigative support, crime scene management, forensic strategy, searches and community involvement, amongst other subjects.
- 3.2.2 Specifically, under the section headed 'The Role of Chief Officers in Major Crime Investigation', the Murder Investigation Manual states that '*Chief Officers should be involved in the selection and appointment of SIO's and ensure that the appropriate development and training needs are met*' and further that '*advice from the Crown Prosecution Service regarding the obligations of homicide investigation under Article 2 of the European Convention on Human Rights is that – the SIO and investigators are trained and experienced; They are supervised; It is reviewed; Records are kept*'. Although the States of Jersey do not have a Crown Prosecution Service, the principle of utilising trained and experienced investigators is, nevertheless, relevant as the European Convention on Human Rights is incorporated into the Human Rights (Jersey) Law 2000.
- 3.2.3 It is the view of this Inquiry that whether or not an individual has pursued a specialised career in crime investigation, it would be cause

for concern if a Chief Officer of Police was unaware of the standards pertaining to the selection and appointment of an SIO of appropriate seniority with the requisite training, skills and experience. Even where a Chief Officer's specific training has become outdated, experience should alert him to the necessity to ascertain and comply with current standards, as per the Murder Investigation Manual, which prescribes that *'Chief Officers retain an individual responsibility to develop and maintain their current knowledge of issues related to murder and major crime investigations'*.

3.2.4 An early example of the fact that CO POWER was aware of the standards which could be expected of someone in his position is highlighted in a report he authored whilst serving as Deputy Chief Constable of Lothian and Borders police in 1997. He had been appointed to review a Grampian Police murder investigation into the death of a nine year old child. The report contained several recommendations. In particular, it confirmed that *'experience and training in major crime investigation is essential'*. This is a basic but essential tenet to follow and the greater the impact of a case on a community, the greater the emphasis that should be placed on that appointment and the underlying skills and experience of the SIO. **OFFICER X**, the head of the Specialist Crime Review Group of the Metropolitan Police Service, comments *'What this means to me is that at a Senior level within any police service you should ensure your most experienced SIO deal with Category A investigations and not just the next available SIO'*. However, this does not negate the need for a trained SIO. Whilst DCO HARPER did have some experience as an investigator, he did not meet the skill requirement set out in the Murder Investigation Manual.

3.2.5 Operation Rectangle was a complex, high-profile enquiry to search for suspected victims of homicide. The States of Jersey Police policing plan for 2008 states *'.... during 2007, the Force opened a child abuse investigation which has developed into the biggest enquiry of its kind*

in the Island's history...' The need for an organised managerial structure at the outset should have been catered for and revisited in a systematic way as the dynamics of the enquiry changed.

OFFICER X states *'Challenges should have been made at critical points of the investigation and a supervisor; in this case it could only have been Mr POWER, should have made those critical challenges'*.

3.2.6 It appears to this Inquiry that at least two distinct opportunities occurred to make the right choice in the appointment of an SIO for Operation Rectangle. The first was at the outset of the Historic Child Abuse Enquiry which commenced in September 2007, and the second, crucial opportunity, was following the 'find' of a suspicious item on 23 February 2008 at Haut de la Garenne. This elevated the enquiry to a new level such that it then became, for all intents and purposes, a homicide enquiry.

- **Opportunity one – Historic Child Abuse Enquiry**

3.2.7 In September 2007, whilst the Historic Child Abuse Enquiry was in its initial stages, DCO HARPER had been performing the dual function of SIO for the enquiry and Deputy Chief Officer. The suggested rationale for DCO HARPER's appointment as SIO can be found within the statements of CO POWER and ex-DCO HARPER. (These are commented upon in the following paragraphs). Both Officers were concerned that some previous cases of child abuse had not been prosecuted by the Attorney General. Ex-DCO HARPER states *'It seemed that the SoJP were being blamed for not bringing prosecutions'*. Perceived failures to prosecute were considered by DCO HARPER and CO POWER as having led to mistrust of the States of Jersey Police by victims of child abuse, exacerbated by a perceived 'link' between the Jersey Sea Cadet Corps, (which had been the focus of previous enquiries), and a serving senior States of Jersey Police police officer. In his statement dated 2 April 2009, ex-DCO HARPER states that CO POWER agreed there should be an investigation into matters of historical child abuse and that he (DCO HARPER) should run it: *'I basically said that here was a job*

*that had to be done and he [CO POWER] agreed, saying that I should use **OFFICER X** and a couple of others to investigate’.*

3.2.8 However, there is some uncertainty as to the role of DCO HARPER at this time. CO POWER comments in his witness statement *‘in the earlier stages, Rectangle was an enquiry running alongside a number of others being carried out by the force. **OFFICER X** was the SIO and Lenny Harper was maintaining strategic oversight’.* He continues *‘I would need more access to files to discover when Lenny Harper moved from having strategic oversight to being SIO. I know that when this happened nothing much changed in reality’.*

3.2.9 This is an important issue that requires clarification. Ex-DCO HARPER makes no reference to his role being that of ‘strategic oversight’ and clearly he believed he was the SIO from the outset of Operation Rectangle. Ex-DCO HARPER states *‘It became known as Operation Rectangle and Graham POWER wanted me to take control’.* The first Policy Book (contained in Appendix 3 of this Report) details DCO HARPER as the SIO on the front cover with **OFFICER X** as the Deputy SIO. More importantly **OFFICER X** states *‘I was appointed DSIO by Mr HARPER in September 2007. The SIO in this case was Deputy Chief Officer Lenny HARPER’.* Clearly there is confusion on this matter. The SIO, DCO HARPER believed he was performing this role. The Deputy SIO, **OFFICER X**, believed **X** was also performing the role of SIO. This Inquiry has concerns that at the outset of Operation Rectangle, the opinion of the Chief Officer differed to that of his Deputy about who was leading the investigation.

3.2.10 Irrespective of CO POWER’s thoughts on when DCO HARPER assumed the role of SIO, he cites the following reasons for this appointment.

- Reluctance within the States of Jersey to accept any appointments made outside of Jersey. *‘I have described earlier... the long and exhausting battle that had to be endured in order to obtain authority to*

advertise and recruit a new DCO from outside of the island, and how that left the Minister for Home Affairs in a position in which she could not realistically make a further approach for permission to fill another senior post externally'. Whilst this Inquiry accepts that the recruitment of a new DCO may have taken some time, such reason is not a satisfactory basis for selecting the incumbent DCO as the SIO. This Inquiry considers that there were more appropriate candidates for the role of SIO already available from within States of Jersey Police. These alternatives will be referred to later.

- CO POWER has commented on a possible link between the professional standards [i.e., misconduct] issues that existed in the Force and Operation Rectangle. *'It was decided that Lenny Harper would have this role for reasons which included the professional standards elements and, to put it plainly, some uncertainty regarding who in the force could or could not be trusted at that time'*. This Inquiry accepts that suspected corruption was relevant to the decision-making process about selecting the SIO for Operation Rectangle, but this concern could have been overcome. **OFFICER X** comments *'It would have been appropriate for Mr HARPER to supervise a currently trained and skilled SIO and to take the strategic lead'*. This option could have included the appointment of **OFFICER X** as the SIO, as **X** was trained, experienced in Child Protection matters and already involved in the enquiry, thereby negating the concern regarding the 'uncertainty' which CO POWER alludes to. We have no reason to believe that CO POWER or DCO HARPER suspected that **OFFICER X** was corrupt.
- CO POWER has commented on the suggestion that **OFFICER X** should have been the SIO at the commencement of Operation Rectangle. *'There was also the probability that media interest would intensify (although nobody foresaw the extent to which this would happen) and that there would be the customary political attempts to interfere or score points. OFFICER X was a good*

investigator, but relatively new to X rank. X was not skilled in dealing with political challenges and not confident in a hostile media environment'. The need for personal robustness in the SIO appears to be a third reason why the Chief Officer selected DCO HARPER as the SIO. With his strength of character and ability to stand up to pressure. 'He was no diplomat and his disdain for those who he regarded as unprofessional or obstructive to progress was sometimes visible. Over time he came to have a negative view of a number of Jersey Politicians, many of the senior figures in the public sector, and the Law Officers Department. In those cases he tended to manage relationships in a rather formal and professional way. I do not recall him being deliberately offensive in those relationships but there was no visible warmth either'.

3.2.11 However, there is evidence that CO POWER intended his role in Operation Rectangle to be one of dealing with any political pressure that arose, thus allowing the SIO to continue managing the Operation. He states his '*identified role*' is '*protecting the investigation from political interference*'. This even became a recommendation within the Homicide Working Group report. '*Recommendation 13. That the Chief Officer maintains a safety zone between the investigation and any demands of politicians*'. It is our view, therefore, that to cite this reason for not appointing **OFFICER X** as the SIO in the initial stages of Operation Rectangle, i.e., that the SIO had to be able to deal with '*political challenges*' contradicts the role that CO POWER considered to be his domain.

3.2.12 Operation Haven has identified a further option that was available to the Chief Officer. The HMIC Baseline Assessment, Self Assessment of March 2006 in respect of the States of Jersey Police states '*The force has a service level agreement with Devon and Cornwall Police for the provision of support in major investigations. The support available includes, SIO, Scenes of Crime, Search Teams, House to House teams, Major Crime investigators, Major incident room staff & a Disclosure officer*'. This option would have negated any concerns

regarding the potential for the SIO to be 'corrupt', would have provided a trained and experienced SIO and allowed CO POWER to confidently argue the issue of the appointment of an external SIO with the Jersey politicians. Further, the service level agreement would have provided a timely resolution given the dynamics of the investigation. We note that a HOLMES team from Devon & Cornwall Constabulary was deployed without difficulty in support of Operation Rectangle.

3.2.13 In trying to understand the process by which DCO HARPER became the SIO, it is a matter of concern to this Inquiry that CO POWER and DCO HARPER have recorded so little of their decision-making processes. The key decision about the appointment of the SIO is not documented in any policy books, day books or pocket notebooks that we have been able to locate. (All known Policy Book entries are reproduced in Appendix 3.) We consider this to be a pertinent omission. There should have been significant records available of the rationale, especially where options existed with some more contentious than others. A contemporaneous record would have provided a reliable indication of what CO POWER was thinking at the time and would be of greater value than the retrospective account which we now must rely on. The Murder Investigation Manual states in relation to Policy Files that *'It is the definitive record upon which they [SIO's] will rely when subsequently asked to account for decisions'*. Our view is that this decision was fundamental to the enquiry and should have been recorded with detailed reasoning.

3.2.14 One of the first problems that the appointment of DCO HARPER as the SIO caused was the lack of supervisory options. **OFFICER X** of the Metropolitan Police Review Team states *'it was clear to me that if Mr HARPER was acting as SIO, the only person who could provide any supervision would be Mr POWER'*. **OFFICER X** also comments *'in these circumstances where Mr HARPER had been appointed SIO, his supervision rests with Mr POWER unless he decided to delegate that responsibility to*

another although in this case I see no evidence of that'. The appointment of a more junior rank SIO for Operation Rectangle than DCO HARPER would have provided more tiers of supervision, thereby relieving the Chief Officer of a direct supervisory role. Put simply, appointing the DCO as the SIO meant that only CO POWER could supervise him. The ACPO Homicide Working Group, a Gold Group (if one had been formed), the IAG, and Ministers could not perform this function. X of the ACPO Homicide Working Group comments in X witness statement 'We were not supervising the investigation; we were providing advice and support'.

3.2.15 CO POWER, in response to questions asked of him by **OFFICER X** regarding the SIO appointment, explained that *'there was a long-term plan to bring in a Deputy and appoint an SIO from outside and that Mr HARPER would bridge that gap'*. Whilst the appointment of a Deputy Chief Officer occurred with the arrival of DCO WARCUP, Operation Haven has found no substantial evidence to support the suggestion that there was a 'long term plan' in existence to appoint an external SIO.

3.2.16 Indeed, when CO POWER met X on 20 May 2008 *'we discussed the case. He had issues regarding OFFICER X being the SIO as X was not from the Island. Neither was David WARCUP, the person selected to be the new Deputy Chief Officer upon Lenny's retirement. We discussed the fact that Lenny was moving on and he said that people in power on the Island would not have wanted him to stay on. He added that some had concerns that Lenny was planning to write a book. Further discussion took place around Operation Rectangle. Mr POWER said that David WARCUP may want to lead the enquiry but that he must have a role for OFFICER X I asked if X had the expertise. Graham POWER replied 'well X was born on the Island and was head of the financial management unit'. POWER felt that X could be the SIO on OP Rectangle. I suggested that we might meet with Lenny HARPER and Dave WARCUP soon to discuss succession planning for the new*

SIO. He agreed to this. I pointed out that OFFICER X had the corporate memory of the investigation and must remain the IO'. These comments, if correct, may suggest that CO POWER did not intend to appoint an external SIO in May 2008, and that he was inclined towards an internal appointment.

3.2.17 Chief Executive to the Council of Ministers, Bill OGLEY, states that during June or July 2008, Graham POWER approached him to discuss the options for a replacement SIO. These options were to either obtain the services of a UK experienced SIO or to appoint a qualified SIO from the States of Jersey Police. CO POWER named a possible SIO from within the Force and Bill OGLEY believes that this was OFFICER X. CO POWER's dilemma was that SIOs from within the Force did not have the experience of working on such a major and high profile case and wanted the opinion of Bill OGLEY on how the options would be regarded locally. In addition, the Head of Human Resources for the States of Jersey Police, X, also has no recollection of any long term plan and was not aware of the intention to advertise for an external SIO until 30 June 2008.

3.2.18 Although CO POWER states that he had a long-term plan, the lack of any supporting evidence from members of the ACPO Homicide Working Group, the Metropolitan Police Review Team, Chief Executive Bill OGLEY, and ACO WARCUP may suggest the contrary. If a plan was in existence then it should have been known to and understood by those key personnel supporting the Chief Officer. OFFICER X states '*I discussed the issue of bringing in an SIO from off the Island with both Graham POWER and Lenny HARPER. Mr POWER stated that he had thought of this idea previously but it wasn't an easy alternative to consider as it required authority from The States and very difficult to do at short notice. Mr HARPER could not recall whether this idea had been discussed previously or not*'. The absence of any contemporary documentation or supportive witness evidence casts doubt that any such long-term plan, as suggested by CO POWER, existed.

- **Opportunity two – Haut de la Garenne**

3.2.19 The events of 23 February 2008 provided perhaps the most significant opportunity for CO POWER to reconsider the appointment of DCO HARPER as the SIO. If any doubt had previously existed about the suitability of DCO HARPER to be the SIO, the potential homicide enquiry should have prompted examination of his training and experience, especially in light of the immense interest from the national and international media. Homicide investigation is usually complicated and technically sophisticated, requiring training, expertise and experience, if a successful outcome is to be achieved. The Murder Investigation Manual states *'The role of the SIO in a homicide investigation is potentially one of the most complex and challenging positions within the Police service'*. Homicide investigation is made even more demanding by virtue of media scrutiny of high profile cases. Therefore, a currently trained SIO is more likely to achieve a successful outcome than one who is not.

3.2.20 CO POWER has commented at some length in his statement about the advice of the ACPO Homicide Working Group and the issue of the SIO appointment. Following the request for their assistance and mentoring on 24 February 2008, the ACPO Homicide Working Group was informed that DCO HARPER was to continue as the SIO. **X** states *'a decision had already been made by the States of Jersey Police that he was to be the SIO and that he required support and advice. That was the purpose of us going to the Island'*. **X** comments *'a decision had been made by the Chief Officer that he [DCO HARPER] should be the SIO'* and, therefore, no recommendations regarding this issue were made by the ACPO Homicide Working Group. There is certainly a misunderstanding between ex-DCO HARPER and the ACPO Homicide Working Group on the point of whose decision it was to allow him to continue as the SIO. Ex-DCO HARPER states *'it was their recommendation that I should become the full time SIO which resulted in OFFICER X taking on my role as Deputy Chief Officer'*. This is obviously in contrast to the above comments of **X** and **X**

who imply that the decision was a 'fait accompli'. We comment subsequently in this Report about some aspects of the ACPO Homicide Working Group's engagement which appear to have provided grounds for misunderstanding and confusion which did not serve Operation Rectangle well.

- 3.2.21 However, the evidence of the ACPO Homicide Working Group is that it did not recommend that DCO HARPER should continue in the SIO role. Operation Haven can find no evidence that the ACPO Homicide Working Group recommended DCO HARPER as the SIO. We can find no documentary evidence or other written evidence that supports ex-DCO HARPER's assertion that the ACPO Homicide Working Group recommended his appointment.
- 3.2.22 It is also pertinent to point out that the ACPO Homicide Working Group has no locus in which to countermand the DCO or the Chief Officer. It has no authority to make requirements and its mandate is solely to provide advice. However, this Inquiry would expect the ACPO Homicide Working Group to be appropriately robust and challenging on the vital issue of the appointment of an untrained SIO to a critical incident.
- 3.2.23 In his statement, CO POWER recalls, '*they [ACPO Homicide Working Group] recommended that he [DCO HARPER] should become full-time [SIO]*'. There is no suggestion that he and DCO HARPER may have already decided that the DCO would remain as the SIO. He continues that '*to change him in mid-flow for no better reason than the absence of current qualifications or similar reasons... would not be credible... and could have had far reaching consequences*'. This Inquiry finds this an unacceptable reason given that it appears to suggest that no matter what the deficiency in qualification or the potential effect on Operation Rectangle, it was simply beyond consideration that DCO HARPER could have been replaced by a qualified investigator.

3.2.24 Even when following the events of 23 February 2008, Operation Rectangle had escalated in significance, CO POWER persisted with DCO HARPER in the role of SIO, as opposed to substituting a qualified person. CO POWER's logic is outlined in his statement where he suggests that *'running alongside this [issues concerning professional standards] was the undoubted fact that Lenny Harper had, within the space of a few hours, become established internationally as the public face of the enquiry'* and that *'almost overnight we had moved to a position in which any replacement of Lenny Harper as SIO would have been world news'*. In respect of these insights to CO POWER's thinking, this Inquiry does not agree they are sufficiently valid reasons for continuing with an untrained SIO at the helm of such a major inquiry.

3.2.25 It is worth noting that Operation Fincham (the murders of Jessica CHAPMAN and Holly WELLS in Soham, Cambridgeshire in August 2002) and Operation Sumac (the murders of five prostitutes in Suffolk, in November/December 2006) each changed the SIO after the investigations commenced. It is not uncommon to do so. The circumstances existed for DCO HARPER to provide strategic oversight to the enquiry and, if desired, to remain as the media 'face' whilst a trained SIO managed the investigation of Operation Rectangle. **OFFICER X** states *'it would have been appropriate for Mr HARPER to supervise a currently trained and skilled SIO and to take the strategic lead'*. This Inquiry considers the views expressed by CO POWER in paragraph 3.2.24 above, as short sighted.

3.2.26 CO POWER should have realised his decision was a 'judgement call' and that it should have been recorded and kept under review especially when the growing significance of the case became apparent at key times, namely:

- Post Operation Rectangle becoming 'overt' in November 2007

- Immediately after the 'find' on 23 February 2008
- Following the political and legal criticism of the management and handling of Operation Rectangle
- Pursuant to the concerns raised over Exhibit JAR/6 (see the Media Section of this Report).
- In light of the increasing levels of expenditure on the investigation
- And in the knowledge that other SIO 'options' existed

3.2.27 In this latter regard, it is clear from the witness statements of CO POWER and **OFFICER X** and contemporary e-mail messages, that CO POWER did entertain the appointment of **OFFICER X** to the role of SIO '*in spite of the difficulties, I persisted in considering an internal appointment of an SIO at an appropriate time, and OFFICER X continued to feature in those deliberations*' **OFFICER X** comments '*Sometime during the week commencing 25 February 2008 Mr POWER asked me at a morning ACPO briefing to take an interest in the Haut de la Garenne investigation and to 'shadow' DCO HARPER... This was, I think, because DCO HARPER was coming up for retirement and Mr POWER wanted a continuity and succession plan for the SIO role in the investigation*'. However, it is clear that no substantive outcome was arrived at and it was not until 30 June 2008 that an advertisement was placed for a new SIO following the decision to appoint DCO WARCUP to the States of Jersey Police and prior to his appointment on 4 August 2008. CO POWER comments '*the appointment of OFFICER X as SIO was one of the options I took forward to my discussions with David Warcup. Had this option been agreed it would of course have enabled a much earlier phased handover of responsibility. However it emerged that Mr Warcup preferred to have an independent SIO from the U.K. I cannot remember the details of my discussions with David Warcup, but they must have involved consideration of the need*

for the enquiry to be seen to be fully independent of local political considerations, and how the appointment of a long-serving Jersey officer might impact on this'.

3.2.28 Whilst this Inquiry accepts that DCO WARCUP preferred the appointment of an external SIO, this did not occur for four months after the events of 23 February 2008. A trained SIO, albeit of limited experience, was present within the States of Jersey Police. As this Inquiry suggests in this Report, a number of alternatives were readily available to CO POWER throughout Operation Rectangle **OFFICER X** is but one example. The significant events referred to in Paragraph 3.2.26 above provided a number of clear and on-going opportunities for CO POWER to have acted to secure an individual with accredited skills.

3.3 The relationship between CO POWER and DCO HARPER

3.3.1 This Inquiry has considered the relationship between CO POWER and DCO HARPER as it affects the latter's appointment as SIO and in relation to the general conduct of the inquiry. The views of some witnesses may assist in deciding whether the contrast in their personalities was a factor both in DCO HARPER's appointment and retention as the SIO for Operation Rectangle.

3.3.2 **OFFICER X** was closely involved with Operation Rectangle and observed that DCO HARPER *'had a strong influence'* over CO POWER. **OFFICER X** *'witnessed Lenny HARPER being allowed to do whatever he wished with regards to the investigation, without any obvious supervision from above'*. We are aware of no basis to impart unfair bias in **OFFICER X** evidence.

3.3.3 Attorney General William BAILHACHE recalls that CO POWER told him on 16 April 2008 that *'there was a limit to the amount of control which he [CO POWER] could exercise over the Deputy Chief Officer'*.

- 3.3.4 In March 2008, Frank WALKER (Chief Minister between 2005 and 2008) had concerns regarding the supervision of the investigation. He states *'sometime in March, I do not recall the exact date, I had a meeting with Graham POWER and we spoke about the investigation. He gave me a full update and I asked him whether he was using Lenny HARPER's words or his own. What I wanted to know was whether he [CO POWER] was in control. He stated that he was updating me on what Lenny HARPER had told him. This was the first inkling I had that he may not have been either as fully informed or as fully in control of the investigation as I would have expected'*. If this is an accurate representation of the facts, then we are concerned that simply regurgitating the views of the SIO without critique or challenge on matters of substance is not conducive to effective supervision.
- 3.3.5 In relation to the criticism being received from various politicians, CO POWER comments *'Almost overnight we had moved to a position in which any replacement of Lenny HARPER as SIO would have been world news. At one point frustrated by what he perceived as constant political sniping, he told me that if political actions interfered with his role as S.I.O. he would "not go quietly"*. (The underlining is CO POWER's emphasis). We feel these comments suggest that CO POWER feared the consequences of changing the SIO, and whilst he should have been aware of the potential conflict that could arise, it should not have deterred him from asserting his authority over DCO HARPER.
- 3.3.6 There are clear indications that DCO HARPER had a strong personality. CO POWER describes him as *'no diplomat and his disdain for those who he regarded as unprofessional or obstructive to progress was sometimes visible'*. **OFFICER X** a member of the Chief Officers' staff office, states *'I can describe Mr HARPER as being very dominant'* and **OFFICER X** comments *'The organisation as a whole became a culture of fear because officers felt that even if they made a genuine mistake they would be heavily penalised by him [DCO HARPER], in*

one way or another'. Such a culture, if it existed, may have had a bearing on the investigation of Operation Rectangle and hence the need for intrusive supervision. In contrast, however, ex-DCO HARPER states *'I never felt that he was not supporting me and I never felt he was giving me a free run either*'. He recalls that only once in their discussions did he hear CO POWER say *'I am the Chief Officer*'. Ex-DCO HARPER recalls that CO POWER was 'invasive' in his supervision and states that *'he was his own man and more than a match for me*'.

3.3.7 Whilst this is DCO HARPER's view, this Inquiry has found very little evidence of CO POWER challenging DCO HARPER. We examine a number of situations in this Report where challenge could and should have arisen and we provide comment accordingly:

- The manner of use of Martin GRIME and the enhanced victim recovery dog (see Section 1.9)
- The Exhibit JAR/6 (see the Media Section of this Report)
- The relationship with the prosecution lawyers (see section 1.8)
- The media release in relation to suspects 'A' (see the Media Section of this Report).

3.3.8 This Inquiry concludes from the above, that the evidence of intrusive supervision by CO POWER of DCO HARPER is minimal.

3.3.9 Evidence of CO POWER's avoidance of confrontation with DCO HARPER can be gleaned from ACO WARCUP's statement, when he recounts a conversation with CO POWER and Detective Superintendent Michael GRADWELL after a meeting on 10 October 2008 *'he [CO POWER] stated that he had a problem which I and Mick GRADWELL did not have, which was an allegiance to Lenny HARPER. He [CO POWER] had supported him right through, had tried to keep him 'in check' and had to manage the fact that not many people on the Island supported him. He [CO POWER]*

knew that certain aspects were not right but had to manage him, 'particularly [sic] the last six weeks' [sic].

- 3.3.10 Operation Haven has considered the position of ACO WARCUP and the possible motives for such assertions. The suspension of CO POWER and the subsequent Inquiry could be construed as providing a benefit for ACO WARCUP in terms of status and financial reward. Therefore, we have carefully sought to establish where his evidence is supported by experts, key personnel within Operation Rectangle and other witnesses, and where it is not.
- 3.3.11 For example, ACO WARCUP has commented, in some depth, on the lack of strategic command through a Gold Group. His views are corroborated by **OFFICER X** the expert on Critical Incident Management commissioned by Operation Haven. **OFFICER X** states *'a Gold Group was later formed by DCO Warcup when he took up his post and, from the minutes, seems to follow the spirit of ACPO guidance and practice without apparent difficulty'*.
- 3.3.12 ACO WARCUP has explained in some detail his concerns about the media coverage of Operation Rectangle and the possible abuse of process arguments that arose due to the inaccurate or misleading reports released by the states of Jersey Police *'I am absolutely clear in relation to this and other conversations which I had with Mr POWER, particularly in relation to the importance of ensuring that the public were properly informed and the fact that future trials would be in jeopardy if the correct facts were not put into the public arena'*. This view has been echoed by **X**, an external media consultant who was commissioned (albeit by DCO WARCUP) to conduct an external communications review of Operation Rectangle. (Details of this review and **X** comments can be found in the Media Section.) **X** states *'I recommended to him [CO POWER] that the force was duty bound now that the murder investigation had finished, to announce this much publicly and to apologise for what I believed to be the inaccurate description and presentation of 'the finds' recovered from HDLG'*.

- 3.3.13 ACO WARCUP's statement comments at some length about the relationship between the prosecution legal team and Operation Rectangle *'having had the opportunity to review the situation which existed I was firmly of the opinion that the decision not to fully include the lawyers in the process was wrong and acted to the detriment of the investigation'*. This assertion is supported by the view of the lead Advocate, Stephen BAKER. *'He [DCO HARPER] plainly did not want the lawyers involved. He appeared to have no experience of working closely with lawyers in the earlier stages of investigations'*. Advocate BAKER continues *'Mr HARPER seemed to come from the preconceived view that the Attorney General and, therefore, his lawyers would seek to frustrate this investigation. This preconceived view meant that the working relationship was bound to fail'*.
- 3.3.14 Although CO POWER might wish to suggest that ACO WARCUP has motive to 'remove' CO POWER from the Chief Officer role, ACO WARCUP's assertions have been tested against the views of others. We cannot say against which of these witnesses it may be suggested that a 'conspiracy' against CO POWER was formed. Suffice to say, this Inquiry is alive to the proposition and takes it into account in coming to our conclusions.

3.4 DCO HARPER's experience as an SIO

- 3.4.1 DCO HARPER had not undertaken the role of SIO for 16 years before Operation Rectangle and was untrained in both the current Professionalising Investigations Programme accreditation process (a joint ACPO/NPIA programme to improve investigative competence), and in the previous system of modular training for each aspect of major crime investigation. By his own admission, his CID days ended in the early 1990s and he had never attended an SIO course. His is not a case of outdated training, rather one of no current training whatsoever. DCO HARPER's background is such that he could not legitimately lay claim to being considered a qualified SIO on the basis of prior acquired experience referred to as "Grandfather Rights" in

SIO accreditation terms. (The expression 'Grandfather Rights' is not a nationally recognised term, but is a phrase that has been used to describe very experienced and fully trained SIO's who retain a high degree of expertise due to their *recent* training and investigative experience even though they have not actually undertaken the current accreditation process.)

3.4.2 Before any SIO is tasked with investigating homicide he or she must have undergone a professional development programme combining an appropriate SIO course followed by a work-based assessment against National Occupational Standards by trained and competent assessors. At the end of this process, the candidate is deemed to be 'competent' with a documented audit trail to support this assertion and their status updated on the National SIO Database maintained by NPIA. Even existing SIOs have to undergo this process. Neither DCO HARPER nor CO POWER are accredited in this way or possess 'Grandfather Rights' to perform as an SIO. Neither is included on the NPIA database.

3.4.3 This view is endorsed by **OFFICER X** who states that DCO HARPER should not have been appointed as the SIO as, despite the 'corruption' rationale expressed by CO POWER and DCO HARPER *'his skill levels were not sufficient or current enough to enable him to lead the investigation'*. This Inquiry believes that the decision to appoint DCO HARPER as SIO was a regrettable judgement. It was contrary to the advice in the Murder Investigation Manual that Senior Investigating Officers are *'trained and experienced'*. However, as the investigation continued, and the scale of the issues and problems became increasingly obvious, the culpability of CO POWER in not addressing the skills and training of the SIO became a matter of performance failure by CO POWER rather than a mere error of judgement.

- 3.4.4 Detective Superintendent Michael GRADWELL also commented that DCO HARPER was not a qualified SIO in a memorandum dated 5 October 2008 to DCO WARCUP. This memorandum is strongly worded throughout and recognises that *'Former DCO Harper is not a qualified senior investigating officer – this type of issue was addressed during the review into the Soham murder enquiry... former DCO Harper appears to have been allowed to follow his own agenda, making, 'knee jerk', unprofessional reactions without management oversight or interjection'*.
- 3.4.5 Whilst Detective Superintendent Michael GRADWELL was specifically appointed to manage Operation Rectangle, in the interest of fairness this Inquiry also considers his motives in making critical comments relating to its supervision. He has made strong assertions that Operation Rectangle was not run to a satisfactory standard. For example, he states *'I raised concerns about the investigation by the former senior investigating officer and highlighted issues about 'the partial remains of a child', the cellars, the teeth, the shackles, the bath and other matters that I considered to have been misrepresented'* (see Media section of this Report.) These concerns, however, have been reiterated by other witnesses. X comments *'statements made in relation to the item recovered on February 23rd were not accurate, and incited enormous media coverage which at times was hysterical and sensational and was, in turn, equally inaccurate and misleading. The description as "cellars" [of] the voids under the flooring was inaccurate and allowed the media to create a false impression in the public mindset. The description of an item recovered from Haut de la Garenne as 'shackles' was not accurate. The language used to describe the 'bath' could have been more accurate'*.
- 3.4.6 Throughout his statement Detective Superintendent GRADWELL criticises the former operational set up. *'There was no provision for intelligence sharing within the Force and due to the lack of a Gold Group there was no co-ordination or understanding of on-going*

operational issues'. This opinion has been supported by others.

OFFICER X states *'It is my view that this was clearly a critical incident within the Island and the role of a Gold Group would have supported both Mr POWER, the investigation and the wider community'*.

3.4.7 Therefore, it is the view of this Inquiry that whilst Detective Superintendent GRADWELL has strong motivations (which we are aware he has disclosed to national media), his comments and opinions on relevant issues can be tested against the views of other witnesses.

3.4.8 **X**, a very experienced Major Incident Room Office Manager, came to Operation Rectangle initially as part of the support provided by Devon & Cornwall Constabulary, and then remained as a member of support staff once **X** retirement date had been reached. In light of **X** experience, **X** passes much comment on DCO HARPER in his role as SIO *'I would expect to get some serious direction from the SIO. The Policy Decisions were few and far between... Mr HARPER just wasn't doing this. Mr HARPER only came to the Incident Room on fleeting visits... he wouldn't come into the room and give a team brief each day... one of the briefings we did have was staged for the press... I do not think there would be one SIO in the country that would have announced to the media that they had discovered child remains without having it fully checked out first... I think Mr HARPER was just out of his depth as an SIO'*.

3.4.9 In respect of the appointment of DCO HARPER as the SIO, **OFFICER X**, Chief Constable of Durham Constabulary and Chairman of the ACPO Homicide Working Group, expressed **X** views in the following terms *'in my opinion, because of the small ACPO team, either extra resilience at ACPO level should have been sought or a fully qualified SIO brought to the investigation'*. It has been established by this Inquiry that **OFFICER X** was appointed as Acting Deputy Chief Officer after DCO HARPER became the dedicated SIO to Operation Rectangle. It is to

CO POWER's credit that he made this appointment. However, whilst **OFFICER X** 'acting' role may have provided the extra resilience suggested by **OFFICER X**, the position remains that CO POWER failed to place a qualified SIO within the enquiry during its crucial stages. Also, as we have stated, with DCO HARPER as the SIO, only CO POWER could supervise him in that capacity.

3.4.10 The subsequent advertisement for the post of SIO (to replace DCO HARPER following his retirement) was apparently drafted by the ACPO Homicide Working Group on 30 June 2008, following discussion with and at the request of, CO POWER. It specifically required that candidates should be accredited to Professionalising Investigations Programme Level 3, or has equivalent investigative experience as a pre-requisite in order to apply for the post. The advert was written by **X** and **X** in conjunction with **OFFICER X**.

3.4.11 If CO POWER had followed this course of action in February 2008, it would have ensured, in all likelihood that an appropriately qualified SIO was appointed and there would have been no need for a replacement upon DCO HARPER's retirement. There was a four month period between the events of 23 February and the release of the advert for a new SIO in late June 2008. This Inquiry believes that the significant events in this enquiry (mentioned in paragraph 3.3.26) should have prompted the appointment sooner. The SIO timeline for Operation Rectangle (see the Evidential Bundle accompanying this Report) highlights the opportunities available. Whilst this is a view from hindsight, this Inquiry feels that certainly the momentous effect of the discovery on 23 February 2008 should have prompted substantive and documented reconsiderations by CO POWER about the need for a trained SIO.

3.4.12 **OFFICER X**, as part of **X** review, spoke with CO POWER in October 2008 on the issue of appointing

DCO HARPER as the SIO, at which time CO POWER stated that *'on paper, there was no one else in the Force to deal'*. As we have suggested, this was neither the case in fact nor the only option available to CO POWER.

3.4.13 The reality was that five States of Jersey Police senior officers had attended UK SIO training courses. These officers are **OFFICER X**, **OFFICER X**, **OFFICER X**, **OFFICER X** and **OFFICER X** (One other senior States officer was suitably trained but due to **X** close association with the Sea Cadets **TEXT REDACTED** this Inquiry accepts that it may not have been appropriate to appoint **X** as the SIO.) Although none were accredited to Professionalising Investigations Programme Level 3, they had recent and relevant knowledge of the Murder Investigation Manual, Major Incident Room Standardised Administrative Processes and 'best practice'. Therefore, a number of officers were qualified for the covert and overt stages of Operation Rectangle. As the enormity of the investigation emerged, this Inquiry considers it a failing by CO POWER not to have appointed a qualified SIO. The five named officers were all better qualified for the role of SIO than DCO HARPER, albeit they too were lacking in experience. It also remained open to appoint a trained and experienced SIO through the Service Level agreement which existed between the States of Jersey Police and Devon & Cornwall Constabulary. CO POWER's assertion that *'there is no one else in the Force to deal'* is not considered valid by this Inquiry.

3.4.14 This Inquiry concludes that opportunities to appoint a suitably trained and suitably experienced SIO, both for the Historic Child Abuse Enquiry and following the 'disclosure' at Haut de la Garenne, were not taken. The only person who could have retrieved the situation was the CO POWER. His experience from the Grampian enquiry and his general length of senior police service tend to suggest that he was, or at least should have been, aware of the significance of an SIO's

appointment. His failure to address the situation in respect of Operation Rectangle represents unacceptable performance from the Chief Officer.

3.4.15 This Inquiry accepts as a genuine and recurrent problem for senior managers within States of Jersey Police that, even where the appropriate training is provided, limited opportunities exist for officers and staff to develop the necessary experience to hone their skills. Other avenues by which individuals may practice their skills should be explored. Most commonly, this is achieved by working alongside others on suitable cases before then taking the lead role with support at hand. States of Jersey Police must consider the resilience (and resource implications) of maintaining reasonable experience to augment training.

- **Recommendation 1**

3.4.16 **The States of Jersey Police considers secondments of trained SIOs to UK forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.**

3.5 The supervision of DCO HARPER as SIO

3.5.1 The appointment of DCO HARPER to the role of SIO meant that, other than CO POWER, no other officer could exercise supervision of him **OFFICER X** specifically brought this to CO POWER's attention on 29 October 2008, but CO POWER again cited difficulties in recruiting an external SIO at short notice as a reason for committing to the appointment of DCO HARPER.

3.5.2 **OFFICER X** considered the matter in **X** statement in this way *'having the Deputy Chief Officer as an SIO is fundamentally flawed in my view because it relies upon the Chief Officer being experienced in dealing with and leading major investigations and I do not believe that Mr POWER has such experience. Any homicide or serious investigation requires a high*

level of supervision and this is not a role I would expect a Chief Officer to take on, the role requires practical experience’.

- 3.5.3 This Inquiry considers that whilst it is to his credit that CO POWER accepts he is deficient in this area (*‘for the avoidance of doubt I have no current qualifications or training whatsoever in the investigation of serious crime, or in the oversight of such investigations’*), it is to his discredit that he did not recognise this as being a very strong reason why he should have resisted the appointment of DCO HARPER as SIO.
- 3.5.4 This Inquiry considers that the absence of current SIO qualification and current experience in DCO HARPER, and CO POWER’s own lack of experience in the supervision of homicide inquiries should have alerted him of the need for concerted action to address the issue of supervision and oversight of Operation Rectangle.
- 3.5.5 This Report will detail in later sections with the consequences of this inappropriate appointment (see Media section of this Report).
- 3.5.6 It may be concluded that, having appointed the DCO as the SIO, there were broadly three supervisory approaches available to CO POWER:
- 3.5.7 The first approach would be to supervise the SIO himself although, in light of the above comments, this is not considered a viable option. The second option would involve engaging the advice and mentoring skills of an officer who was trained and proficient in this area. Whilst CO POWER contends that this was accomplished in the commissioning of the ACPO Homicide Working Group, its engagement in no way absolves the Chief Officer of his supervisory responsibilities in respect of DCO HARPER.
- 3.5.8 CO POWER’s supervisory responsibility was commented upon in the initial ACPO Homicide Working Group report *‘other than from a supervisory and responsibility standpoint, Graham Power, Chief Officer for States of Jersey police, is not involved in the actual*

investigation'. The point is reiterated by X who says in X statement *'it is made clear in this passage that he [CO POWER] had a supervisory role to play in addition to attending to political matters'*. It appears to this Inquiry that the initial construction of the ACPO Homicide Working Group report downplays the importance of the Chief Officer's supervisory role, whereas X witness statement gives emphasis to it. We are cautious about placing weight on either construction other than to conclude that CO POWER was responsible for Operation Rectangle. We cannot be certain, however, how thoroughly and completely the ACPO Homicide Working Group impressed this burden on CO POWER.

3.5.9 It is the view of this Inquiry that had CO POWER elected not to supervise DCO HARPER as SIO, then CO POWER should have documented such a decision. We can find no evidence of this decision having been taken and this Inquiry has had to assume that he was the SIO's supervisor in the absence of any other viable candidate.

3.5.10 The third 'option' is to trust the SIO's judgment. Although this is seldom a valid, safe or productive option on its own, it appears to this Inquiry to be broadly the approach that CO POWER adopted. He trusted in his SIO's ability and appeared to take more comfort than was appropriate from the advice and reports of the ACPO Homicide Working Group. Again, this Inquiry would reiterate that the ACPO Homicide Working Group has no authority to make requirements of the SIO or Chief Officer and the advice it provides is simply that. This does not remove the responsibility of the Chief Officer. Given that CO POWER accepts that he was neither qualified nor experienced to supervise an SIO, we conclude that he placed himself in a position of being unable to provide command oversight to Operation Rectangle.

3.5.11 CO POWER states *'I estimate that about 80% of my time was given to running the force and most of the other 20% was spent dealing with issues related to Rectangle'*. This Inquiry accepts that this may be

factual, however the lack of documentation available makes it impossible for us to confirm this assertion. If this claim is accurate, we are unable to distinguish what proportion of CO POWER's time was spent responding to problems caused by the actions of the SIO and how much to proactive supervision, guiding the SIO in his management of the investigation.

3.6 Conclusion

3.6.1 In coming to our conclusions, this Inquiry has carefully considered the unique context of Jersey in terms of the size of the Force and its Chief Officer cohort and the relative dearth of experience of its SIOs. We have also considered CO POWER's explanations regarding the political difficulties of external appointments as well as the motivations which could be suggested of some key witnesses. We have set these considerations against the clear standards required to investigate, manage and supervise suspected cases of homicide.

3.6.2 We conclude that CO POWER did not meet the standards required of him in that he failed to ensure he appointed an appropriate SIO to Operation Rectangle; one who had both the training and experience to be able to perform effectively in the role.

3.6.3 We accept that CO POWER had a limited choice of SIOs, although the option did exist within his own Force to appoint from a number of officers who had recently attended relevant training courses. It was certainly feasible for one of them, with appropriate support, to have been made SIO. This would have provided Operation Rectangle with a suitably trained SIO, thus allowing DCO HARPER to take a more strategic role. DCO HARPER's appointment had a detrimental effect (which we describe later in this Report) on the conduct of the investigation and placed CO POWER in the position where only he could supervise DCO HARPER.

3.6.4 CO POWER has quoted 'political problems' in securing authority for the appointment of an SIO from the UK as being the reason why he

did not pursue that option at an early stage of the enquiry. Difficulties may have existed, but it seems they were assumed to have been so great that no attempt was made or discussion had to move towards a solution until the appointment of Detective Superintendent Michael GRADWELL in September 2008.

3.6.5 It has been suggested by some witnesses that DCO HARPER was a very strong character, used to getting his own way. Some witnesses suggest CO POWER recognised this and accepted it was sometimes beyond his capability to manage DCO HARPER. In essence, we cannot eliminate the hypothesis that CO POWER was content to simply let DCO HARPER ‘get on with it’.

3.6.6 CO POWER was not experienced in the field of major crime investigation and not able, therefore, to effectively supervise DCO HARPER in the role of SIO. Whilst the appointment of DCO HARPER as SIO was questionable at the outset, the subsequent homicide enquiry provided the ideal opportunity to reconsider that decision. Despite discussions with members of the ACPO Homicide Working Group, CO POWER did not fully address the vulnerability of his supervisory position in that he chose neither to appoint one or another of his qualified internal candidates nor to make the case for an external appointment until Operation Rectangle was out of control. By then, the successor DCO and SIO could only try to limit the damage.

- **Conclusion 1**

3.6.7 **CO POWER’s appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an Historical Child Abuse Enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.**

3.7 The Initial terms of reference for, and strategic direction of, Operation Rectangle

3.7.1 The Murder Investigation Manual provides further guidance under the heading, ‘the Role of Chief Officers in Major Crime Investigation’. Within this section it comments ‘*Advice from the Crown Prosecution Service regarding the obligations of homicide investigation under Article 2 of the European Convention on Human Rights is that... Records are kept*’.

3.7.2 Established best practice in respect of the management of any major investigation requires that clear strategic parameters are established at the outset in order to give proper direction to the investigation. **OFFICER X** states ‘*because this was a major investigation for States of Jersey Police I would expect that terms of reference would be agreed by the Chief Officer setting the parameters of the investigation*’. The SIO is required to establish investigative parameters to help inform the investigation team and ensure members are absolutely clear as to the objectives of the investigation and the boundaries they are working within. Normally, a Chief Officer (by virtue of a strategic oversight body/Gold Group) would provide strategic direction for the enquiry, incorporating considerations such as the needs of the local community, avoiding disruption to routine policing elsewhere in the Force area and other overarching issues. As we have considered, following the appointment of DCO HARPER as SIO, only CO POWER could have performed a supervisory function. If this was true at the outset of the Historic Child Abuse Enquiry, it became even more obvious following the ‘find’ on 23 February 2008. From this point on, it was crucial that strong strategic direction was provided to the investigation, having regard to the international scrutiny to which the Force and Jersey itself became subject.

- **Historic Child Abuse Enquiry**

- 3.7.3 During the initial investigation Operation Rectangle was concerned with historic child abuse only. On 1 October 2007, Decision 1 was recorded in the Main Lines of Enquiry policy file by **OFFICER X** as follows: *‘Operation Rectangle is a single agency led investigation involving a number of institutions in Jersey. This will include, but not be restricted to Haut de la Garenne Children’s home and the Jersey Sea Cadets organisation. The case for investigation in respect of these two institutions has already been subject of a report approved by the Deputy Chief Officer and has taken into account issues of proportionality and necessity to conduct the investigation’.*
- 3.7.4 Examination of the Main Lines of Enquiry policy file (see Appendix 3) shows that this simple decision and Decision 2 (in which various Human Rights considerations and specific time parameters in relation to suspects are raised) are the only parameters recorded for the entire investigation. The second category of policy file, the ‘victim/witness’ file contains no parameters or terms of reference that would namely be expected in an investigation of this kind. For example this Inquiry would expect in a investigation of this kind to see parameters to inquire in relation to the victims which focus the investigation to inquire into within a specific time frame. The other categories of policy file – ‘suspect’, ‘media’, ‘search’, ‘financial’ and ‘sensitive’, likewise provide no parameters that provide direction and give focus to investigative activity.
- 3.7.5 Neither are the decisions recorded countersigned by a supervisor. It is debatable whether, at this stage, CO POWER, as Chief Officer, should have been active in ensuring appropriate terms of reference existed or whether he should have asked to see them for the purposes of supervision. This may not have been a major enquiry (in UK terms), but at the outset within the context of a small island community, which apparently held suspicions that child abuse was being ‘covered up’, and that some senior or prominent people had

been involved, it should have been clear that this investigation would have a major impact. In the view of this Inquiry it is the responsibility of the SIO's manager or supervisor to ensure the investigation commences on a solid footing and in the right direction. The only person – we make this is a recurrent point – who could have done so was CO POWER, yet there is no evidence of him taking any active role in setting parameters for the enquiry.

3.7.6 When Detective Superintendent Michael GRADWELL took over the role of SIO he notes that he found the initial terms of reference *'to lack of clarity and focus and the array of policy books to be confusing. I was unable to easily establish what Operation Rectangle was trying to achieve, what work had been done and what work had to be done'*.

3.7.7 This Inquiry considers that it is the responsibility of the SIO to ensure that the parameters and key decisions in an inquiry are properly recorded. It is the responsibility of the SIO's manager to ensure that the SIO is maintaining adequate records of these fundamental considerations to the investigation.

- **Haut de la Garenne**

3.7.8 Following the revelation that the *'partial remains of a child'* had been discovered at Haut de la Garenne, Operation Rectangle became a homicide enquiry. This was a major opportunity for CO POWER to provide clear and unequivocal direction to the investigation, which was now attracting international attention. This Inquiry can find no evidence that new or amended terms of reference were established or that CO POWER sought to ensure this was done.

3.7.9 When asked by Operation Haven about strategic parameters, CO POWER cited reference to the second Homicide Working Group report; paragraph 19. This states *'the team has asked the SIO to define the parameters of the investigation. He has confirmed that it includes: the homicide investigation at Haut de la Garenne; the historical child abuse investigations at Haut de la Garenne; a confidential allegation in respect of a high profile member of the*

community; any suspect who worked at Haut de la Garenne who then went on to work in child care and allegations relate [sic] to that subsequent role; any victim at Haut de la Garenne who was relocated into alternative child care and further abused; and any offence that occurred with a connection to Haut de la Garenne, e.g., day trip boat rides. It does not include any allegations of cover up, conspiracy to pervert the course of justice by a public official or any other unrelated homicide or allegation of child abuse'. Whilst these parameters are all relevant, this Inquiry team has found no documentary evidence that these were written down or otherwise recorded anywhere (other than in the ACPO Homicide Working Group report) by the States of Jersey Police.

- 3.7.10 CO POWER appears to intimate in his statement that only the SIO was involved in developing the strategic parameters. The successful outcome of an investigation also includes broad considerations such as public confidence, the use of resources and co-ordination of partnership effort. In **X** witness statement, **OFFICER X** makes the point that **X** *'would expect that Terms of Reference would be agreed by the Chief Officer setting the parameters of the investigation'*. We agree with **OFFICER X** view.
- 3.7.11 ACO David WARCUP says *'that there was no formal command structure in place and it also became evident there were no clear parameters for the investigation'*. Furthermore, *'during the weeks following my appointment Mr POWER showed little or no direct interest in the inquiry and provided no direction or instructions. Matters initiated by him were generally restricted to correspondence items or items of incoming email which were passed for my attention'*.
- 3.7.12 Following **OFFICER X** discussion with CO POWER on 29 October 2008 regarding Operation Rectangle, **OFFICER X** makes the following observation *'another supervision point on this investigation is that there were no Terms of Reference for Operation RECTANGLE and*

given the potential size, complexity and sensitivity of the enquiry there should have been formal terms of reference agreed between the SIO and Mr POWER as supervisor. As a result of this there are no recorded date parameters for the enquiry which is crucial to such an investigation together with other important information such as what is meant by 'sexual abuse' (this was not defined), there is no reference to suspects and whether this includes staff, visitors, residents, etc. Given the historic nature of the enquiry, guidance on offences to be investigated must be very clear'.

3.7.13 **OFFICER X** also asked CO POWER whether he had seen or had approved any terms of reference, to which CO POWER reportedly replied *'I think he [DCO HARPER] did but I don't know'*. CO POWER also said *'I would not have signed any TOR's. CO POWER sought to justify this by adding that 'Lenny oversaw with a significant free hand, I was trying to manage the political interference'.*

- **Conclusion**

3.7.14 Based on the evidence before us, this Inquiry concludes that CO POWER failed in his supervisory responsibilities and obligations to ensure that the terms of reference for the Historic Child Abuse Enquiry and the post 23 February 2008 investigation of Operation Rectangle provided a clear strategic direction for police activity. All that existed were very limited terms of reference for Operation Rectangle during the Historic Child Abuse Enquiry phase of the enquiry. Subsequent to the 'find' on 23 February 2008, when the level of the enquiry was raised *de facto* to that of a homicide investigation, again, no new or appropriately revised terms of reference were documented.

3.7.15 According to the evidence of **OFFICER X**, CO POWER did not know whether any terms of reference existed. There is no record that he took any action to ensure that any terms of reference or strategic parameters were established. There is no

record that CO POWER reviewed the existing terms of reference or requested to have sight of them. The status of the enquiry from 23 February 2008 onwards should have prompted a competent and involved Chief Officer in CO POWER's position and experience, to have regularly and systematically reviewed the effectiveness of Operation Rectangle. Professionally constructed terms of reference and clearly defined specific parameters for the running of the enquiry would have ensured that Operation Rectangle had the best chance for success and be regarded with confidence by all those with an interest in the outcome.

- **Conclusion 2**

3.7.16 **CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.**

3.8 The day-to-day supervision of DCO HARPER in relation to Operation Rectangle

3.8.1 The Murder Investigation Manual states, under the heading 'The Role of Chief Officers in Major Crime Investigation' that 'The Crown Prosecution service advice regarding the obligations of homicide investigation under Article 2 of the ECHR (incorporated into Human Rights (Jersey) Law 2000), referring to SIOs and investigators, is *'they are supervised'*.

3.8.2 In the job description for CO POWER, under the heading 'Job Context' it states, *'Being on an island presents its own unique problems with regard to operational policing. In instances of major incidents and serious crime... risk management is a significant factor in the decision making process of operational policing'* and under the heading 'The Strategic Aims', *'to manage the effective investigation of crime with priority given to those crimes of greatest public concern'*.

3.8.3 There is no doubt that Operation Rectangle involved allegations of serious crime which could potentially have had a huge impact on

public confidence. The need to 'manage' both the risk and the investigation was paramount. Reference has been made to the fact that CO POWER was the only supervisor of DCO HARPER and it was CO POWER's responsibility to ensure that the Operation was being run to an acceptable standard.

3.8.4 **OFFICER X** makes the important observation, referring to Murder Investigation Manual – '*supervision of an investigation is vital... and that records are kept of that supervision*'. Also '*the role of the Chief Officer (or delegate) cannot be overstated*', continuing, '*I would expect to see a documented supervision trail for an investigation of this type*'. **X** further states that there are no detailed records of any briefings or meetings between CO POWER and DCO HARPER. Without such details, and with the lack of evidence elsewhere, it is impossible to see CO POWER's 'footprint of supervision' in respect of DCO HARPER or Operation Rectangle.

3.8.5 **OFFICER X** concludes '*I would expect to see with such a serious investigation and huge community concerns that this investigation achieved the highest standards in line with ACPO and NPIA guidance. I did not see evidence that this enquiry met those standards in the areas... of supervision or SIO standards*'.

3.8.6 This Inquiry has examined the pocket notebooks of CO POWER. Records of his meetings with DCO HARPER have been recorded but, in our view, with insufficient working detail. For example, there is no content of discussion or record of decisions made. The entries generally show 'confer with DCO' or 'confer with LH' and occasionally the word 'update' is added. Most importantly, there is no record of CO POWER providing instructions, taking issue with or enquiring about the matters he was being briefed on. On the occasions where the two met at Police Headquarters, the fact of these meetings is recorded, but there is no detail available. We know from CO POWER's pocket notebooks that he visited the Major Incident Room for Operational Rectangle on a number of occasions but there

is no record that he supervised the policy files, or countersigned decisions recorded in those files. We cannot determine from the available records whether and to what extent, CO POWER provided strategic oversight to this high-profile case.

3.8.7 CO POWER has stated that *'I kept a note of the meetings in my notebook, and where appropriate, generated emails or other messages in consequence of what had been said at the meeting. If someone wants to call these meetings 'informal' then I beg to differ. They were fit for purpose, and nothing more elaborate was required. I might add that the style of meeting I had with Mr Harper would be quite characteristic of how things are often managed in Jersey, and I suspect other small communities'*. Where a homicide enquiry arises, particularly one which assumes international significance this inquiry would expect to see the highest standards of supervision maintained and proof of their standard available.

3.8.8 Following his suspension, CO POWER was asked by this Inquiry to produce his pocket notebooks and daybooks and, although all of his notebooks were supplied, only torn out pages of a bound book were produced. X, the disclosure officer for Operation Rectangle comments on the request made of CO POWER to produce material and states X received a letter from CO POWER indicating *'I do not keep a "day book" and any document which has that appearance will only contain personal notes, phone numbers, "jobs to do" and the like.'* The pages supplied were date stamped and cover the months from June 2008 to November 2008. The daybooks for the crucial period preceding this were not supplied. The daybook leaves provided do not show any entry which would assist in demonstrating CO POWER's supervision of DCO HARPER. (See schedule of pocket notebook entries that *may* relate to the supervision of DCO HARPER by CO POWER within the Evidential Bundle accompanying this Report.)

3.8.9 This Inquiry has examined the cordon logs at Haut de la Garenne, which were kept to record entry to and departure from the crime

scene. They appear to show that between 21 February 2008 and 14 July 2008, CO POWER visited the site on 18 occasions. These *may* be considered as supervisory visits, although we have no records detailing what he did there and the effect of these visits upon his supervision of the investigation, if any.

3.8.10 Attorney General William BAILHACHE recalls that, following the arrest and release without charge of suspects 'A' on 24 June 2008 and the subsequent media statements made by DCO HARPER, he spoke with CO POWER about the conduct of the DCO. The Attorney General suggests that he told CO POWER that the conduct of DCO HARPER *'was completely unacceptable'* and that he had *'seriously jeopardised the current prosecutions and... might have seriously jeopardised any prosecution arising out of the Historic Child Abuse Enquiry'*.

3.8.11 Such strong words from the Senior Law Officer should, in our view, have prompted intrusive, supervisory engagement from CO POWER with DCO HARPER. Operation Haven cannot determine whether CO POWER positively acquiesced to the challenging line taken by his Deputy or passively acquiesced through an inability to control him. This Inquiry can find no evidence that CO POWER's intervention led to the resolution of the concerns expressed by the Attorney General and appear typical of a pattern of a lack of supervision in this case. This is reinforced by comments from the Attorney General who recalls that prior to the incident involving suspects 'A', on 16 April 2008 (and a previous occasion that he cannot recall), CO POWER informed him that there was a *'limit to the amount of control which he could exercise over the Deputy Chief Officer who was due to leave the employment of the Force in any event in the next 3 or 4 months'*. CO POWER's statement makes no reference to this comment by the Attorney General. The Attorney General's statement was served on CO POWER as part of the disclosure process prior to CO POWER preparing his statement.

- 3.8.12 The question arises as to whether CO POWER possessed sufficient professional knowledge of the standards to allow him to properly supervise DCO HARPER, or the necessary appetite, attitude and managerial ability to do so. There is an admission in CO POWER's letter dated 18 July 2008 to the Attorney General regarding the enquiry when he says '*I do not know as much as I should about major crime investigation*'. Certainly there appears consensus that CO POWER did not have current skills to oversee homicide investigations.
- 3.8.13 Senior police officers, including CO POWER, have a duty to ensure they maintain their levels of competence and assume responsibility for their professional development as per the Murder Investigation Manual. It advises that '*Chief Officers retain an individual responsibility to develop and maintain their current knowledge of issues related to murder and major crime investigation*'.
- 3.8.14 As to appetite and attitude, there are two examples of e-mail communications from CO POWER which give insight into CO POWER's attitude to his supervision of the DCO. Firstly, in an internal e-mail sent to DCO HARPER and **OFFICER X** on 23 February 2008, when making reference to an e-mail 'debate' between politicians, **X** writes '*I think that all of our politicians have approached this investigation with honesty, openness, a desire to find the truth and a solid determination to put political differences aside in the common interest... and so do my friends the elves and pixies*'.
- 3.8.15 This was unprofessional and sets a poor example to the SIO. It also paints a picture of CO POWER's apparent attitude to some of the Island's politicians' engagement with Operation Rectangle.
- 3.8.16 The second example is an e-mail dated 29 February 2008 sent by CO POWER via the Force internet to a friend in the UK, in which CO POWER says '*according to stories doing the rounds in the pubs, the abuse enquiry is a cover story; we are really selecting the winner*'.

of the world hide and seek championships. Or if you prefer what is the difference between a jersey royal and a jersey orphan?? Answer, a jersey royal gets dug up after three months'. This unprofessional comment by the Chief Officer can have no excuse or mitigation at such a critical time for his Force and Jersey.

3.8.17 For all CO POWER's and ex-DCO HARPER's assertions that they had the interest of the victims at the fore (ex-DCO-HARPER comments '*They [victims] were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and transparent and not affected by those such as the Government and lawyers*'), CO POWER's jokes were particularly insensitive comments. The effect on the victims, had they been aware, and the likely reaction from the media had these comments found their way into the public domain, would have had severe implications for public confidence in the Chief Officer. If these comments betray his true attitude (rather than poor 'gallows' humour), then they also speak to the seriousness of his approach to his supervision of the investigation. Sending this e-mail at that time may indicate a worrying level of detachment from the reality of what was unfolding and that CO POWER simply had no comprehension of the true scale of what his Force and the Island were confronting.

3.8.18 Ex-DCO HARPER has provided his views on the supervision he received from CO POWER '*I have been asked to comment on how I was managed by Chief Officer POWER. We would have a meeting each, most mornings at 0900. He was the Discipline Authority for PSD matters so there was a limit on what I could say concerning those matters. Sometimes I told him more than I should in this respect but we could not operate without bending the rules like this. He and I attended various meetings and he got all the minutes of any PSD meeting. There was very little going on that he did not know about.*'

3.8.19 Ex-DCO HARPER continued, *'In terms of being intrusive or leaving things to me, he did both in different measures. He was very incisive with a quick brain and was very good at analysing things. He would say, 'It's a matter for you but I might... as a way of managing. I do not remember getting to a stage where we really disagreed on matters. I could not see the logic in some of his sanctions awarded in cases of discipline but it was not a major issue... In general terms we kept our roles separate and he tended to leave things to me. Where he saw that it was a matter which might have implications damaging to the Force, and he disagreed with my actions, he would interfere. There were a few matters during Operation Rectangle which we talked through and in two cases I got my way and in one case he got his way'.*

3.8.20 Further on ex-DCO HARPER states *'He [CO POWER] believed in invasive supervision and stuck to his principles and always knew what was going on. He was eminently suited to his role. He had a far wider perception of strategic matters than I did. He could not be described as being too operational. He was successful in managing me. He was the Chief Officer in every single way. He was his own man and more than a match for me'.* We have considered ex-DCO HARPER'S views and conclude that the available evidence does not support his contention about CO POWER's supervision.

- **Conclusion**

3.8.21 This Inquiry concludes that CO POWER's supervision of DCO HARPER was inadequate in a number of specific areas. Adequate records were not kept of their meetings as advised by Murder Investigation Manual and, whilst there is no dispute that they had regular communication, the lack of an auditable document trail to show a structured decision-making process appears to epitomise the approach CO POWER took in his supervision of DCO HARPER. CO POWER has not countersigned a single policy decision to show any evidence of his oversight. Had he looked at them, he would have given himself an opportunity to intervene. This may not have been

the 'Jersey way', but must be the standard in respect of suggestions of mass murder of children in the care of the state.

3.8.22 We conclude that CO POWER was not up to date with the standards and knowledge of 'good practice' expected of him, in respect of his role as Chief Officer supervising Operation Rectangle. He was, therefore, not in a position to supervise or otherwise challenge DCO HARPER an officer known to CO POWER to lack current training and accreditation as an SIO.

3.8.23 We conclude that CO POWER brings discredit upon himself by setting a poor example of leadership which falls below the professional standards expected of a Chief Officer, through his inappropriate use of the Force e-mail system.

- **Conclusion 3**

3.8.24 **CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.**

- **Conclusion 4**

3.8.25 **CO POWER made inappropriate use of the Force e-mail system.**

3.9 The supervision by CO POWER of DCO HARPER in respect of his relationship with the prosecution legal team

3.9.1 It is accepted good practice for a close working relationship to exist between the SIO, his or her investigation team, and the prosecution lawyers appointed to an enquiry. The more complicated and serious the investigation, the greater the need for this relationship to be a strong and effective one, based on mutual trust and confidence. Major Incident Room Standardised Administrative Procedures are not prescriptive on the matter, but advocate the following '*The SIO is also responsible for ensuring the early engagement of the Crown Prosecution Service and counsel where necessary*'. This Inquiry is aware that the Crown Prosecution Service is not the prosecuting authority in Jersey, but the analogy applies.

- 3.9.2 The problems that arose between Operation Rectangle and the legal team appointed by the States may be considered, in essence, as being personality-based issues between DCO HARPER and the prosecutors. Evidence of these difficulties is plentiful.
- 3.9.3 In November 2007, DCO HARPER spoke to Attorney General William BAILHACHE regarding a child abuse investigation centred on the Jersey Sea Cadet Corps and the former children's home at Haut de la Garenne. DCO HARPER raised concerns about the possibility of senior police officers having obstructed the enquiry and difficulties which were encountered in obtaining files from both the Children's Service and the Jersey Sea Cadets Corps. DCO HARPER informed the Attorney General of his intention to launch a public appeal for victims to come forward. A helpline was to be set up to facilitate this.
- 3.9.4 In January 2008, the Attorney General enquired as to the progress of these proposals and DCO HARPER briefed him accordingly, providing details of victim and suspect numbers and an overview of the scale of the enquiry. Most significantly, the Attorney General recalls he [DCO HARPER] told him that DCO HARPER *'had three independent sources (I do not recall if he identified the sources) telling him that there were human remains in the grounds (of Haut de la Garenne)'*.
- 3.9.5 The Attorney General states *'I asked him whether he needed any help from us at this stage. He said that he did not want to arrest anyone unless he had evidence looked at to ensure it meets the evidential test. He said it would be helpful to have a Crown Advocate appointed at an early stage – perhaps in a month or so'*. The Attorney General subsequently advised Crown Advocates Stephen BAKER and X that he was retaining their services in anticipation of prosecutions arising from Operation Rectangle. The Attorney General wrote to DCO HARPER to confirm the arrangement on 17 January 2008. In turn, UK Barrister X was instructed by Advocate Stephen BAKER to assist him in preparing any cases which were generated.

- 3.9.6 Problems first arose concerning the charging of a suspect 'B'. On 29 January 2008, Advocate Stephen BAKER was informed by an e-mail from DCO HARPER that suspect 'B' was in custody and would be charged the following day with three cases of indecent assault at Haut de la Garenne. Advocate Stephen BAKER comments *'I thought it was highly surprising that a man was to be charged without me being asked to advise. I knew nothing about the facts of the case. What I did know was that it is crucial in child abuse cases to prosecute cases in the right order'*.
- 3.9.7 Advocate BAKER sent an e-mail to DCO HARPER on 30 January 2008 with this advice *'our strong advice as regards the case brought to our attention yesterday is that there should be no charges brought at this stage... I appreciate this advice will probably not be welcome at this stage given the efforts which have gone in to date. However, we have no doubt that it is in the best interests of the victims in all of the cases under investigation to reflect on the best approach'*.
- 3.9.8 DCO HARPER, nevertheless, proceeded to charge suspect 'B' and e-mailed Advocate BAKER explaining his rationale. Advocate BAKER comments on the e-mail *'I received an e-mail from Mr HARPER telling me that he felt the need to register his concern and apprehension. He went into some detail about his feelings surrounding the case and the events of that day. He stated that he was a little angry at the way things had unfolded in relation to the charging of [suspect B] and wished to put my advice and the timing of it into context'*.
- 3.9.9 Advocate BAKER further comments *'the events surrounding the charging of [suspect 'B'] marked the beginning of a disastrous relationship with Mr HARPER. The lawyers tried their best to develop a working relationship but it proved impossible. With hindsight it is obvious that we were never going to be able to develop a good working relationship because of Mr HARPER's mindset which seemed to be that these types of cases were easy to prosecute and*

that the lawyers were there to frustrate not help him. Given the context of working here in Jersey and in the UK I was extremely surprised at the hostility at which we were met by Mr HARPER. I have never experienced such hostility in my career. I have never experienced such an unpleasant working environment. I hope never to do so again. It soon became apparent that we could not do right for doing wrong. Mr HARPER was a man not prone to self doubt. He did not react at all well to anybody telling him anything he did not want to hear'.

- 3.9.10 CO POWER was evidently aware of this case and the developing problems soon after they arose. His pocket notebook for 30 January 2008 includes the entry '*update on abuse enquiry from DCO – issue regarding charging*'.
- 3.9.11 Albeit CO POWER has acknowledged there existed an 'issue', his note does not detail what the issue was or his response or what instructions, if any, were given to DCO HARPER. However, in his witness statement CO POWER does accept it was '*not a positive episode in the working arrangements with the law officers*'.
- 3.9.12 To his credit, CO POWER consulted with ACPO Homicide Working Group on the issue of lawyers and how to '*build a closer working relationship*'. He determined to act on the advice offered by X that '*a step approach may be the best way to achieve such*'.
- 3.9.13 Attorney General William BAILHACHE received an e-mail on 4 March 2008 from CO POWER stating that the police would welcome having a lawyer on the case. Further discussion ensued before agreement could be reached for Barrister X to commence working at Police Headquarters on 22 April 2008. It was not an easy process, despite CO POWER's commitment to the 'step approach'. As Barrister X notes '*in the first three weeks of April there were negotiations afoot with regards to getting me installed at the police station. The legal team were all amazed that there*

should be such reluctance to having us present and giving advice. We felt that there were two options, either to walk away from the case or to attempt a softly softly approach gradually building up a relationship with investigators on the terms being offered by Mr HARPER hoping to develop those into uninhibited access once trust grew. Subsequently there were suggestions made most of them by Mr HARPER in the media, that this was an attempt by the Attorney General to somehow control the enquiry, implicitly suggesting that the AG wanted to impede prosecutions. I found such suggestions which question my integrity to be offensive’.

3.9.14 Arrangements were made for Barrister X to meet with DCO HARPER on 22 April 2008, when X started working from Police Headquarters. Barrister X, Advocate BAKER and Advocate X met first with CO POWER in his office, seeking to reassure him of their commitment to work with the Police to ensure successful prosecutions. Barrister X remembers CO POWER saying X *‘had to build on working a relationship with Lenny HARPER and I remember him asking if I supported Manchester United as this was his suggested way of getting to know Mr HARPER... What I was expecting to hear... from Mr POWER was that he had instructed Mr HARPER to work with the lawyers and that the reluctance that we had experienced hitherto was not to continue. This is especially so given the clear command structure that I understand to be in place in the police force. The fact that I was being encouraged to talk about football seemed to me to be an implicit acknowledgement by Mr POWER that Mr HARPER was a difficult character and one had to find ways to gain his trust if the relationship was to work’.*

3.9.15 Advocate BAKER states *‘Somewhat surprisingly Mr HARPER did not attend the arranged meeting of the 22nd April 2008. The reason given was because he was too busy. I found Mr HARPER’s failure to attend surprising’.* This was a meeting held to discuss extremely important issues and raises the question as to why CO POWER did not ensure that DCO HARPER was present.

- 3.9.16 Barrister X later met with ex-DCO HARPER at the States of Jersey Police Headquarters and was provided with a room and computer access away from the incident room. However, he was not given access to the material that the lawyers sought. It is clear that CO POWER had only dealt with part of the problem. In CO POWER's witness statement, he states he adopted a 'step approach' on the advice of X of the ACPO Homicide Working Group, and went into the meeting with this in mind. Despite the problem that had occurred, CO POWER was *'determined to overcome this and achieve full integration with the legal team'*. He does not say exactly what the next 'step' would be and the role he was to play in ensuring a positive outcome.
- 3.9.17 ACO David WARCUP in his witness statement states that *'having had the opportunity to review the situation... I was firmly of the opinion that the decision not to fully include lawyers in the process was wrong'*.
- 3.9.18 Detective Superintendent Michael GRADWELL, the second SIO for Operation Rectangle, states in his witness statement that *'it was essential and best practice that the legal team and the investigation team work closely and professionally and within the incident room'*. This Inquiry agrees with the good practice advice and the views of the witnesses. DCO HARPER and CO POWER were either hopelessly out of date in their approach to collaborative working with prosecution lawyers or motivated by suspicions of corruption in the prosecution team which they did not evidence at the time and have not done so since.
- 3.9.19 Further problems occurred in the relationship when on 30 April 2008 when an article appeared in the Guardian newspaper website, reporting that DCO HARPER had been severely and wilfully obstructed in the enquiry. Attorney General William BAILHACHE brought this to the attention of CO POWER and DCO HARPER and held a meeting with them on 13 May 2008 at which DCO HARPER

denied being responsible for the article. In this meeting, the enquiry was discussed and the Attorney General repeated the necessity to allow lawyers full access to all evidence and material.

- 3.9.20 The statements of the Attorney General, Advocate BAKER and Barrister X, all make reference to the importance to the investigation of providing the lawyers with access to all evidence and unused material. CO POWER was made aware of this on a number of occasions, but this Inquiry has found no evidence that he ever directed DCO HARPER to allow unfettered access. His lack of current professional knowledge may provide the reason why this was not done. In a letter (previously referred to) which was sent by CO POWER to the Attorney General on 18 July 2008, CO POWER confesses *'I do not know as much as I should about... the rules of disclosure'*.
- 3.9.21 The final breakdown in the relationship between DCO HARPER and Barrister X came in June 2008, when the Barrister was provided with a file in the case of suspects 'A'. X gave advice and they were arrested on 24 June 2008. Barrister X then provided further advice, whilst they were still in custody, that they should not be charged at that stage. The reasons for this advice are fully explained in X statement. X details their telephone discussion on the matter, with DCO HARPER refusing to act on X advice for further statements to be taken. Barrister X describes the exchange as *'the most unpleasant conversation I have ever had with a police officer. The attitude of Mr HARPER to criminal investigations was deeply concerning'*.
- 3.9.22 DCO HARPER, in an apparent direct challenge to Barrister X advice, sought to charge suspects 'A'. In order to do so, it was necessary to call out the Centenier for the parish that evening to obtain authority to charge. The Centenier attended and having read the case papers declined to charge the suspects.

- 3.9.23 This matter is also referred to by Advocate BAKER who comments *'when the Centenier refused to charge, Mr HARPER went to the press. In my view this was wholly improper. This action by Mr HARPER entirely destroyed the relationship. We were aware he was retiring and would be replaced. It was our hope that a competent SIO would replace him'*.
- 3.9.24 DCO HARPER's press release laying the blame on the law officers for the suspects' release without charge, which was copied to CO POWER, can be found in the Media section of this Report.
- 3.9.25 CO POWER and Home Affairs Minister Andrew LEWIS were required to attend Attorney General William BAILHACHE's office as a result of the furore triggered by DCO HARPER's press release. This is also dealt with in the Media section of this Report, but it is worthy of note that the Attorney General, states that he does *'not recall that Graham POWER had very much to say'* about the matter.
- 3.9.26 The Attorney General states that, as a result of the refusal by DCO HARPER to fully engage with the lawyers, there was an unnecessary increase in legal costs incurred whilst defending the abuse of process action brought by Operation Rectangle defendants and through managing disclosure queries. The Attorney General also comments that he believes CO POWER failed in his supervision of DCO HARPER by not ensuring the prosecution legal team had full access to files and documentation.
- 3.9.27 Deputy Andrew LEWIS recalls in more detail the position taken by CO POWER. He states that *'Mr POWER was taking a stance of supporting Mr HARPER's position and how he was dealing with the media. I also recall that during the discussion about having prosecutors being involved during the investigation Mr POWER said that Lenny HARPER was an old style cop, who did not like the idea of prosecutors being a part of the investigation team and that Lenny HARPER would not agree to this strategy and that it would never be adopted prior to Lenny leaving the Force'*. The fact remains

that CO POWER was his supervisor and, therefore, in a position to direct him if CO POWER disagreed with his Deputy's position.

- 3.9.28 CO POWER contributes his recollection saying that *'I may have had some brief discussion with Lenny Harper on the media release during the earlier part of the day, but if I did it is not recorded'*. Following the meeting commented on in Paragraph 1.8.25, CO POWER states *'I had a face-to-face discussion in my office with Lenny Harper about the media release... I told him that nevertheless his actions had created something of a crisis which I would now have to manage. I instructed him as follows... he should submit a written duty report on the incident'*. CO POWER requested DCO HARPER to provide a written duty report on the incident, together with copies of the media policy, which were then forwarded to the Attorney General. This aspect is covered in more detail in the Media section of this Report.
- 3.9.29 CO POWER states that he advised the soon to retire DCO HARPER that he had spoken with the incumbent DCO WARCUP, who would assume oversight of the enquiry, and that his [DCO WARCUP's] preference was to have lawyers integrated in the enquiry team. CO POWER also states it would be helpful if DCO HARPER did not impede any transition. CO POWER then states he had little contact with DCO HARPER after that meeting leading up to his retirement.
- 3.9.30 This Inquiry believes the ongoing difficulties between DCO HARPER and the lawyers could and should have been resolved of by way of a directive from his supervisor, CO POWER. The only person in a position to do this was CO POWER and he failed to do so. The deteriorating and un-addressed position led to an irreversible break down in relationships between DCO HARPER and the prosecution lawyers. This is simply an unacceptable situation which CO POWER should have prevented.
- 3.9.31 However, reference has been made in this Report to comments made by CO POWER to Attorney General William BAILHACHE that he had limited control over DCO HARPER *'Graham POWER told me that*

DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, POWER, could exercise. I understood him to say that this was a difficult management problem and that he was keen to ensure he did not make matters worse by exercising an authority which Mr HARPER might have construed in a hostile way.’ And ‘there was a limit to the amount of control which he could exercise over the Deputy Chief Officer who was due to leave the employment of the Force in any event in the next 3 or 4 months. I said that I was minded to write to him formally to request that a lawyer join the investigation team. He asked me to leave it with him’.

3.9.32 The above, if correct, appears to be an admission that CO POWER was not able to supervise his Deputy, regardless of the consequences for Operation Rectangle. CO POWER’s attitude appears to change in a letter to the Attorney General, dated 30 June 2008, when addressing the selection process for a new SIO. CO POWER states *‘you can rest assured that the selection process will have proper regard to candidates experience in working alongside prosecutors’*. This is something which should have been taken into account from the outset when making the decision to appoint and retain DCO HARPER as the SIO.

3.9.33 In his statement, CO POWER describes in great detail the relationship with the legal team and the difficulties caused by previous cases, prompting DCO HARPER’s mistrust of the lawyers. He states *‘I note that members of the Law Officers Department, and lawyers involved in Rectangle have made statements. While these statements inevitably set out views which show some marginal differences between the lawyers involved, on one point they are unanimous. They all confirm that they were all given everything they asked for. Every lawyer in every statement describes a sequence of events which led to them being provided with every access and every facility they requested. They are equally unanimous that all of this was delivered under my command, either by me personally or by*

subordinates instructed to do so on my behalf. I cannot find in the evidence a single word of dissent on this important evidential’.

- 3.9.34 In contrast to this the Attorney General states *‘Graham POWER may have had the impression that the lawyers got everything they asked for and that he did everything reasonable to settle the relationship between them and the police. I think in his heart of hearts he knows or ought to know that is not true.*
- 3.9.35 It should also be noted that CO POWER makes reference to the Attorney General’s Annual Review of 2008 of which extracts appeared in the Jersey Evening Post on 25 June 2009. CO POWER states *‘In the report there is reference to the issues around Rectangle, and the Attorney General is quoted as saying ‘However some of the faults must have been on the side of the law officers whether of communication or otherwise. Whatever the cause, the result was that the law enforcement agencies did not work together as they should’* [underlining. (Emphasis added by CO POWER.)
- 3.9.36 Operation Haven has sought clarification on this matter from the Attorney General who has commented as follows in a further witness statement *‘This is an opening paragraph to the section of the introduction which deals with the question of public confidence in the criminal justice system. The passage on which I have been asked to comment follows some sentences which criticise senior police officers. To accept that there may have been some fault on the part of the Law Officers was intended in part as a softening of that criticism but also reflected that I had become aware in March 2009, as a result of a media enquiry that there had been an error on the part of one of my lawyers in July 2005 in relation to a child abuse case’.* Whilst this Inquiry notes the details of the *‘error on the part of one of my lawyers’*, this refers to events some two years prior to Operation Rectangle and appears to be oddly out of context to the point made in the Attorney General’s Annual Review of 2008.

3.9.37 However, the Attorney General continues with his criticism of the behaviour of former DCO HARPER *‘the express or implied allegations of cover up and lack of integrity, made in private to the media by the then Deputy Chief Officer, were scandalous and, coupled with his approach to the Crown Lawyers, were a substantial cause of the concerns raised about the fairness of the criminal justice system and struck at the heart of it. This section of the Annual Report dealt with that very important issue, although it is obvious that as it is a public document I had to find language that was politic for continuing the good relations with the police which by that time had been rebuilt with the arrival of David WARCUP’.*

3.9.38 This Inquiry finds that a period of nearly seven months elapsed before a proper working relationship between lawyers and the Operation Rectangle enquiry team was formed. This occurred following the appointment of DCO WARCUP and as a result of his agreement with the Attorney General to allow full access to all evidence by the legal team. We can find no professional justification for this delay other than the prejudice of DCO HARPER and the failure to tackle this robustly by CO POWER.

- **Conclusion**

3.9.39 In the view of this Inquiry, it is clear that a poor working relationship existed between the Police, principally through DCO HARPER, and the lawyers engaged on Operation Rectangle. DCO HARPER’s apparent belligerence caused difficulties in the day-to-day consideration of prosecution decisions, encouraged unwanted media attention as a result of his portrayal of the lawyers, created tensions between the Police, the Law Office and the States, and resulted in an abuse of process application in respect of the very cases DCO HARPER was publicly committed to. Again, the only person in a position to challenge DCO HARPER was CO POWER and he failed to do so before irreversible harm had been caused.

3.9.40 This Inquiry accepts CO POWER did make some attempts to guide DCO HARPER's actions. However, those attempts appear to us to be inadequate and below the level of supervision reasonably required to effectively manage DCO HARPER in an enquiry of Operation Rectangle's significance. It appears to this Inquiry that CO POWER preferred to try and 'ride things out' until DCO HARPER retired. In doing so, he permitted poor relations with the legal team to continue. We can countenance no circumstances in which it should be necessary to publicly criticise prosecution lawyers in the media in the absence of compelling evidence of their corrupt practice. We are aware of no such evidence, albeit we accept that this was DCO HARPER's honestly held belief.

- **Conclusion 5**

3.9.41 **CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.**

3.10 The justification for the search at Haut de la Garenne

3.10.1 This Inquiry believes that there is no specific standard contained in any of the NPIA manuals for how a decision to search should be made. If this view is correct, the justification for a search must, therefore, be a matter for professional judgment based on the particular facts of the case.

3.10.2 It is apparent from DCO HARPER's policy book entries relating to the search of Haut de la Garenne that the rationale he developed to justify the search (in particular the full scale dig inside the premises) is based upon historic accounts from witnesses of varying reliability. However, Decision 13 of the Search Policy Book also makes reference to the Ground Penetrating Radar confirmation of anomalies under the floor and '*dog indications*'.

- 3.10.3 In respect of CO POWER's oversight, given the absence of comprehensive decision records, it cannot be established what information was in CO POWER's possession regarding DCO HARPER's intention to search Haut de la Garenne or whether CO POWER questioned the proposals put to him. Assuming CO POWER had agreed the proposal it would be incumbent on him to critically assess the bases for the decision to search. The lack of detail contained within Operation Rectangle's policy decisions for searching Haut de la Garenne provides no assistance in establishing whether CO POWER directed or supervised policy in this respect. The suspicion must be that he did not.
- 3.10.4 CO POWER comments that *'the reasons which led Lenny Harper as the Senior Investigating Officer to conclude that an examination of some locations at HDLG was appropriate are well documented. That was primarily his decision. From what I was told of the evidence, his decision seemed perfectly reasonable'*.
- 3.10.5 In this statement, CO POWER seems to be asserting that he may not have had all the information he should have and that the decision was not primarily his. Nevertheless, in his role as Chief Officer, he should have provided strategic guidance to the SIO and ensured the justification(s) proffered for the search would stand scrutiny, given the obvious significance of searching a former children's home for evidence of missing, possibly murdered children.
- 3.10.6 CO POWER comments further *'if we had not searched HDLG when we did, then it would have become necessary for it to be searched at a later date'*. It may be concluded that the search of Haut de la Garenne was always going to take place and, for whatever reason, DCO HARPER and CO POWER believed it to be necessary, even though it was not based on a critical examination of the evidence before them.
- 3.10.7 In any event, it is apparent that CO POWER endorsed the decision to commence the search since it was he who sent an e-mail headed

'Investigations on States Owned Property' to Bill OGLEBY on 20 February 2008 in which he writes *'Bill. Just to let you know the scientists have identified an area inside the premises [Haut de la Garenne] which they say needs further exploration. We already have some witness evidence relating to the same area of the building'*. He copied this e-mail to DCO HARPER and added *'Lenny Bill rang. I told him in plain language that we would be ripping up the floor... for the record he gave his agreement'*.

- 3.10.8 On 11 February 2008, a string of e-mails between the States of Jersey Police Forensic Service Manager, X, and DCO HARPER, reflect X attempts to persuade him to search the inside of Haut de la Garenne. DCO HARPER is adamant in his reply that they will not search that area as *'there is not a shred of intelligence or evidence to suggest that anything untoward took place in any of the rooms. We would be fishing'*.
- 3.10.9 It appears to this Inquiry that the only additional information obtained by DCO HARPER after that point, when he was so adamant that the search should not take place, was the opinion of a builder who conducted work on the building in 2003 and held a contrary view to a pathologist who, in 2003 when bones were found at Haut de la Garenne, classified them as animal rather than human. It cannot be ascertained, in the absence of documentary records to assist us, why the view of this builder should have had such a profound effect on DCO HARPER, causing him to change his initial viewpoint. Neither has any record been found as to whether this particular aspect of the decision was referred to CO POWER for consideration.
- 3.10.10 It seems more likely to this Inquiry, that CO POWER felt that, against the political backdrop and suggestions of 'cover up' and concealment, there was no alternative but to search Haut de la Garenne with a view to bringing the rumours and speculation to an end. Operation Haven accepts that this legitimate objective must be taken into account when assessing the performance of the Chief Officer in respect of this facet of our Inquiry.

- 3.10.11 We now deal with the introduction of Martin GRIME and his Enhanced Victim Recovery Dog (EVRD) to Operation Rectangle. Operation Haven has established through enquiry with the NPIA, that Martin GRIME was an ACPO accredited dog handler whilst he was a serving police officer, but forfeited accreditation upon his retirement in July 2007. We mentioned that Mr GRIME remains on the ACPO accredited list of experts though his EVRD is no longer accredited by ACPO. Whilst Martin GRIME's original contract to Jersey was for five days, his actual deployment lasted for 130 days.
- 3.10.12 The forensic review carried out by X of the NPIA questioned the presence of Martin GRIME on site for such a long time. X, was informed that Martin GRIME had been acting as a Deputy Crime Scene Manager to Forensic Service Manager X, at the request of DCO HARPER. The forensic review noted Martin GRIME's lack of formal training or qualifications to perform the role of Deputy Forensic Service Manager and that to utilise him in this role *'cannot be recognised as good practice'*. The review also noted that *'there was concern from some persons interviewed that too much reliance had been placed on the dogs'*. It is accepted that dogs are 'presumptive screening assets' only and that any alerts or indications they give must be forensically corroborated. In addition, it is a fact that there were no concise terms of reference for the deployment of Martin GRIME and his EVRD or his subsequent use as a search advisor, apparently with the support of DCO HARPER.
- 3.10.13 CO POWER himself states *'the search dog seemed to play a significant role in determining whether a specific location needed to be examined further. I am not an expert on dogs or what they do'*.
- 3.10.14 Again, there is a distinct lack of documentary evidence to show any intrusive supervision of the SIO with regard to the continued search. This Inquiry concludes that the actions of DCO HARPER and Martin GRIME went unsupervised for some considerable time. To

CO POWER's credit, there is an e-mail exchange between him and DCO HARPER dated 10 May 2008 in which CO POWER raises the question of the continued use of Martin GRIME and his EVRD. He says *'Lenny, it has struck me for some time that he [Mr GRIME] is an expensive resource who has more than his fair share of down time'*. DCO HARPER replied in the same e-mail string *'to be fair to him though, he hasn't got much down time as he is also the NPIA search coordinator and is fully employed'*. CO POWER replies *'Thanks. Better understood now'*. CO POWER does not appear to pursue the matter further.

- 3.10.15 However, DCO HARPER's reply was not factually accurate. Martin GRIME was neither an NPIA search advisor nor fully employed. In his statement, Martin GRIME states that *'I am a Subject Matter Expert registered with the UK National Policing Improvement Agency and specialist homicide canine search advisor... I advise Domestic and International Law enforcement agencies on the operational deployment of police dogs in the role of homicide investigation. I develop methods of detecting forensically recoverable evidence by the use of dogs and facilitate training'*. His expertise lay purely in the use of dogs in searching, not as a 'search co-ordinator'.
- 3.10.16 **OFFICER X** notes that during conversation with **X**, CO POWER accepted that *'the dog was 'probably unreliable' and that the dog handler, GRIME, had too much influence over the enquiry, again, Mr POWER didn't say how he managed or dealt with that issue'*. This Inquiry has been unable to establish whether CO POWER made any further attempts to supervise the SIO in this key part of the investigation.
- 3.10.17 **OFFICER X** concludes *'decisions should be made based on professional policing judgement and evidence. When you look at the facts, the excavation and searching of Haut De La Garenne... was not justified'*.

- **Conclusion**

- 3.10.18 There are two significant issues in relation to the search of Haut de la Garenne. Firstly, whether the search was justified and secondly, whether CO POWER supervised the decision-making process, given the significance of the search and what it implied about Operation Rectangle.
- 3.10.19 Operation Haven concludes that the decision to dig at Haut de la Garenne was questionable. DCO HARPER was not trained to an acceptable level and, in the case of CO POWER, we note his own admission that he had no current training '*in the oversight of such investigations*'. Nevertheless, this Inquiry can conceive why, in all circumstances, it may have been considered reasonable to do so. We do not raise formal criticism of DCO HARPER or CO POWER for their decision to do so. We do point out however, that the decision to search having been made, the risks in terms of public and media speculation about police activity, if reported, should have been predicted and carefully planned for.
- 3.10.20 The decision to search Haut de la Garenne and the far reaching consequences for Jersey, its people and its reputation, should have been foreseen. More thought and objectivity should have been applied to the decision-making process and managing the aftermath. We have found no evidence that CO POWER applied his mind properly or at all to the implications of the search prior to its commencement. This Inquiry is left with the impression that CO POWER's passive acceptance of the opinion of the SIO was exacerbated by his own lack of experience.
- 3.10.21 Once the decision to search had been made, CO POWER should have exercised proper supervision to revisit and document the necessity for the search operation and the continued justification for it. Had he considered the possible implications of the search, CO POWER may well have had cause to reflect on the need for a plan to manage the impact. There is no evidence to suggest that he

did so. This Inquiry's opinion is that the following comments from CO POWER exhibit a naive approach in relation to the search of Haut de la Garenne '*I told him [Connétable Silva YATES] the Force was about to start some exploratory work at Haut de la Garenne, and this was part of a search for evidence in relation to the abuse enquiry. I said that we would hope to keep the work discreet but we might be there for a couple of weeks'. Also 'we hoped to undertake necessary work at HDLG and to leave afterwards, with the minimum of media attention. We were not looking for a media presence at HDLG'.*

- **Conclusion 6**

3.10.22 **CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.**

3.11 The management of Operation Rectangle within the normal, day-to-day operations of the States of Jersey Police

3.11.1 Whilst it is clear that Operation Rectangle was a very expensive operation and had a huge media footprint, this Inquiry cannot establish that it had any demonstrably negative effect on other day-to-day operations in the Force.

3.11.2 We have found that Operation Rectangle was not discussed in detail within the scheduled meeting agenda at Force level. However, meeting minutes for March to June 2008 reflect that, despite the demands of the investigation, the ability of the Force to provide a 'normal' policing function was not affected. In July 2008, the matter of the impact of Operation Rectangle on staffing levels was raised. CO POWER responded in the following terms, '*supervision, quality control and very careful management will be required over the next few months'.*

3.11.3 Best practice would dictate that Operation Rectangle should have been managed and resourced in line with the National Intelligence

Model processes, in particular, the Tasking and Co-ordinating process. This is a fortnightly meeting of managers and partner agencies whose aim is clearly explained in Practice Advice on Tasking and Co-ordinating 2006, Section 1.3.1, page 15: '*The T&CG [Tasking and Coordinating Group] meeting is the central point of the tasking and co-ordination process and is essential for turning intelligence into action. The T&CG makes decisions between competing demands on resources and also provides direction to staff. In addition to managing resources the T&CG will agree the priority with which crime and disorder problems should be dealt. An efficient T&CG will prompt focused activity through the tasking and co-ordination process*'. This appears not to have been followed as an approach in Jersey during Operation Rectangle.

3.11.4 CO POWER describes the '*inevitable tensions between Operations Management and Rectangle in matters relating to resources*'. This is an unavoidable consequence of an operation of this size and impact if the National Intelligence Model is not applied in order to ensure the Operations Management Team and other stakeholders are better informed of the reasoning behind resource decisions. However, open source evaluation of Force crime reduction data and detection does not reveal any drop in performance during the relevant period. This is reflected in the statement of CO POWER who states '*it was a difficult period, but with a few exceptions, the performance of the Force was maintained, and the wider community did not suffer significant adverse consequences as a result of the resource impact of Rectangle*'. Operation Haven has found no evidence to contradict this statement.

3.11.5 Whilst this Inquiry has found no evidence that Force crime reduction and detection performance suffered as a result of resources being diverted to Operation Rectangle, we conclude that Operation Rectangle was managed in a 'silo' without due regard to other activity in the Force. **OFFICER X** states '*Op RECTANGLE did not fit into this formula as DCO HARPER reported*

direct to the Chief Officer Graham POWER and every other member of the Force Management Team was completely excluded from all updates and decisions'. X also adds 'I was not aware that CO POWER had set up a Financial Oversight Group prior to this, and I think that is indicative of how this enquiry was run, i.e. we were excluded from all key decisions and developments and any oversight'.

3.11.6 This Inquiry understands the need for confidentiality, but it is seldom appropriate to maintain confidentiality at the cost of effective co-ordination at Force level. The fact that the senior officers of the Force were unsure of what was happening in respect of such a huge and public inquiry is not conducive to the effective management of the Force and teamwork.

- **Conclusion 7**

3.11.7 **The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.**

- **Recommendation 2**

3.11.8 **The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined in the 'Practice Advice on Tasking and Co-ordinating 2006' document.**

4. The supervision of Operation Rectangle as a critical incident by Chief Officer POWER

4.1 Introduction

4.1.1 Whether CO Graham POWER's performance met the ACPO/NPIA standards and guidance for the supervision of Operation Rectangle as a critical incident.

4.1.2 The standards applicable to the management of Operation Rectangle as a critical incident are:

- ACPO Murder Investigation Manual 2006 – Section 3
- Practice Advice on Critical Incident Management 2007, produced on behalf of Chief Police Officers and the National Policing Improvement Agency.
- Working Together to Safeguard Children: A guide to interagency working to safeguard and promote the welfare of children – Her Majesty's Government 2006
- ACPO The Investigation of Historical Institutional Child Abuse 2002 – Section 7.1 Community Impact Assessment

4.1.3 A critical incident is defined in ACPO/NPIA Practice Advice on Critical Incident Management 2007, prepared by **OFFICER X** CBE BEM QPM, as *'any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family and/or the community'*.

4.1.4 In **X** foreword to the NPIA Practice Advice, **OFFICER X** states, *'There are two main facets to Critical Incident Management:*

- *Identifying and dealing with incidents where the effectiveness of the police response may have a significant impact on the confidence of the victim, their family or the community;*

- *Taking proactive steps to restore public confidence after a critical incident has been identified.*

4.1.5 *Chief Officers have a responsibility through their senior officers and Basic Command Unit (BCU) commanders, to ensure that all officers and staff understand the concept and terminology used in critical incident management. They must encourage a culture of vigilance and quality assurance so that any incident that has the potential to escalate into a critical incident is identified early and is managed effectively. A key aspect of effective critical incident management is building relationships with communities and winning their trust and confidence’.*

4.1.6 **OFFICER X** makes it clear that whilst the Critical Incident Guide represents the best available advice and comparative practice from around the UK, including the Metropolitan Police Service, it is published as ‘professional practice’ and as such has no mandatory or ‘legal’ status.

4.1.7 The role of Chief Officers is crucial to successful critical incident identification and management. The NPIA Practice Advice states *‘There is an obligation on Chief Officers to ensure that critical incidents are only declared when it is necessary and appropriate to do so, and that the response is proportionate to the scale of the incident. It is important that where an incident is declared critical, the subsequent response quickly identifies the causes and a management plan is implemented to restore the quality of the police response and re-build public confidence. It is only through a prompt well-coordinated response that the police will be able to reassure the victim, their family and the community and restore any lost confidence in the Police Service’.* This Inquiry suggests responsibility for strategic co-ordination of the police response to Operation Rectangle rested clearly with CO POWER.

4.1.8 This Section should be read in conjunction with the Critical Incident Timeline which highlights key events relating to this Section.

4.2 Structure of this section of the Report

4.2.1 Sections 4.3–4.7 of this Report cover the chronology in relation to specific elements of critical incident management. Sections 4.8–4.15 analyse the issues that this Inquiry consider to be of relevance having considered the actions of CO POWER against the applicable standards.

4.3 Declaration of Operation Rectangle as a critical incident

4.3.1 On 13 December 2007, **OFFICER X** declared Operation Rectangle a ‘Category A + critical incident’. This decision was recorded in a document known as the Main Lines of Enquiry Policy Book. Decision 6 refers.

4.3.2 However, on 28 December 2007, DCO HARPER added a further entry to this Policy Book (Decision 8) stating that the Operation would not require a Community Impact Assessment and there was no necessity to form a Gold Group. Both a Community Impact Assessment and a Gold Group are considered essential in the management of critical incidents as per the NPIA Practice Advice. DCO HARPER’s entry reads *‘Decision: Not to produce a Community Impact Assessment or establish a Gold Group in terms of the Manual. Reason: Although technically a critical incident and Cat A investigation this is solely because of the context of the Island and the size of the Force. There is no likelihood of community tensions leading to damage to comm. relations. In respect of the Gold Group it is not appropriate because of the involvement of other agencies in the allegations and the additional possibility of Crown Advocates being appointed imminently’*. This entry is written and signed by DCO HARPER. All policy book decisions are included in Appendix 3 of this Report.

- 4.3.3 There is a contradiction in the two policy decisions made regarding the declaration of Operation Rectangle as a critical incident and it is evident that the SIO, DCO HARPER, and the deputy SIO, **OFFICER X**, had a difference of opinion on this issue. **OFFICER X** explained that DCO HARPER would not sign the policy decision regarding the categorisation of the investigation as a critical incident. The assumption that this Inquiry makes is that he changed his mind on the issue, as DCO HARPER had previously agreed with **X** on 13 December 2007 that it should beclassified as a critical incident. **OFFICER X** states in **X** witness statement *‘both of these decisions are recorded in the Policy Book but for some reason Mr HARPER did not sign off the decision regarding the categorisation of the investigation. It is possible he didn’t do this as he later changed his opinion. This can be evidenced by a later policy decision on 28 December 2007 where he has recorded that it was not necessary to do a Community Impact Assessment or establish a Gold Group’.*
- 4.3.4 The decision made by DCO HARPER to treat the Historic Child Abuse Enquiry as ‘technically a critical incident’ appears to provide his justification, at the time, for not producing a Community Impact Assessment (CIA) or establishing a Gold Group. Having been given this direction by the SIO, **OFFICER X** did not apply the NPIA Practice Advice in the management of Operation Rectangle.
- 4.3.5 After the significant developments of the 23 February 2008 and with the agreement of CO POWER, the ACPO Homicide Working Group was approached and asked to appoint a mentoring and advice team for DCO HARPER as SIO for the Historic Child Abuse Enquiry. Following first deployment on 29 February 2008, the ACPO Homicide Working Group’s key recommendation relating to critical incident management was Recommendation 17 of the first report produced between 29 February and 2 March 2008 *‘That the Chief Officer and*

SIO consider a Community Impact Assessment and convene an Independent Advisory Group (IAG). The IAG should not include former residents of this home, but could include advisors from the NSPCC or community groups. The IAG could advise on the CIA'.

- 4.3.6 This Recommendation again raised the issue of critical incident management with DCO HARPER and directly with CO POWER. It recommended they re-think their rationale for not implementing best practice advice, particularly in relation to conducting a CIA and forming a Gold Group.

4.4 Community Impact Assessment

- 4.4.1 Whilst it had been the earlier opinion of the SIO that a CIA was not necessary, DCO HARPER did eventually accept and act on the advice contained in the ACPO Homicide Working Group report and a CIA was completed on or around 19 March 2008. As we shall explain in due course, little practical use was made of its insight.
- 4.4.2 Section 7.6 of the ACPO Homicide Working Group report states *'the investigation was declared a critical incident and a Cat A + by the SIO – Decision Number 8. He also decided not to hold a Gold Strategy group or complete a Community Impact Assessment (CIA). The reasons for the lack of a CIA are shown with regard to his concerns of possible suspects in public offices. A CIA can be wholly internal to the police and one should be considered. To assist such an Independent Advisory Group could be convened for this specific investigation/enquiry. This team are more than content to assist with this proposal'.*
- 4.4.3 It is apparent that despite DCO HARPER's reticence to consider a CIA, his colleagues identified the requirement for a CIA. DCO HARPER outlined his resistance to the proposal in his witness statement *'I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions. I agreed to it because the Manual says that we should do it. However, this was not South London, Belfast or Moss Side. It*

became a priority action but not a top priority. OFFICER X said that we should have one'.

- 4.4.4 OFFICER X, a trained SIO, was clear on the need for a CIA. X formed the view that the Historic Child Abuse Enquiry was a classic example of a situation requiring one. X was also of the opinion that the DCO had a disregard for the CIA process *'I was surprised at the stance taken by DCO HARPER because if ever there was a need for a CIA, to monitor public feeling, this was it'.*
- 4.4.5 Despite DCO HARPER's views and prior to the ACPO Homicide Working Group recommendation being made, OFFICER X arranged for OFFICER X of the Community Safety Branch, to prepare a draft CIA in anticipation of one being required.
- 4.4.6 Following the ACPO Homicide Working Group recommendation, DCO HARPER tasked OFFICER X on 12 March 2008 to complete a CIA. OFFICER X liaised with OFFICER X and made use of the information X had previously gathered. Upon completion, OFFICER X submitted the CIA to OFFICER X who circulated it amongst the Operations Management Team, including OFFICER X, in accordance with good practice. This activity ensured those likely to be affected by anything within the CIA, about community reaction to Operation Rectangle, were in possession of relevant information and able to plan a response. However, DCO HARPER intervened in the process and dictated that the CIA remain internal to Operation Rectangle for its sole use. He specifically directed that the Operations Management Team should not be given copies, thereby further demonstrating his lack of comprehension of the use and purpose of CIAs.

4.4.7 This Inquiry has established there were eight versions of the CIA which were updated following reviews.

Version	Date Produced	Haven Ref
1	Not dated – around 17 March 2008	x.392
2	19 March 2008	x.394
3	28 March 2008	x.399
4	2 April 2008	x.401
5	15 May 2008	x.405
6	15 October 2008	x.410
7	27 October 2008	x.122
8	13 November 2008	x.124

4.4.8 Other draft versions of the CIA are referred to by Detective **OFFICER X** in **X** statement. CO POWER was not made aware of the CIA by **OFFICER X**, as DCO HARPER had made it clear it was for his attention only. Nevertheless, in accordance with the ACPO Homicide Working Group recommendations, the CIA became a standing item on the Force Management Board agenda from the end of March 2008.

4.5 Independent Advisory Group

4.5.1 To further comply with Recommendation 17 of the ACPO Homicide Working Group's report, an IAG was formed and terms of reference were drawn up with the assistance of **X** of the ACPO Homicide Working Group. DCO HARPER stated *'it was discussed between me, Graham POWER and **X** and as a result, **X** drew up the Terms of Reference for the IAG, incorporating some of the functions of a Gold Group'*.

4.5.2 The ACPO Homicide Working Group assisted in establishing the IAG with **X** sending DCO HARPER generic terms of reference and agendas as examples for use in the IAG meeting. CO POWER and DCO HARPER identified who they felt they could trust to become members of the IAG, and letters of invitation were sent out. Terms of reference and an agenda were distributed with the letter.

4.5.3 The following were the terms of reference adopted:

- *'To identify and address any risks or potential areas of criticism regarding the investigation, matters leading up to it or since it commenced.*
- *To address any areas of risk with regards to the investigation.*
- *To consider issues for victim and community.*
- *To consider impact to or from any other agency or public body.*
- *To consider media implications'.*

4.5.4 Trustworthy individuals are crucial to the success of any IAG, more so in this case, given the allegations and inference of corruption and cover-up. The IAG comprised a selection of individuals considered to be 'appropriate', although it seems from comments made by **X** of the ACPO Homicide Working Group, that the composition of the group selected was entirely at the discretion of DCO HARPER and CO POWER *'both Mr POWER and Mr HARPER discussed who would be the appropriate persons to sit on the group and **X** gave some advice on the Terms of Reference for such groups'.*

4.5.5 The IAG consisted of five members of the community from a variety of backgrounds:

TEXT REDACTED

4.5.6 The inaugural IAG meeting was held on 13 March 2008, with **X** and **OFFICER X** of the ACPO Homicide Working Group in attendance. As can be seen from the minutes, **X** spoke regarding the purpose, background and rationale for establishing an IAG in connection with the Historic Child Abuse Enquiry. Its purpose was described to those present as a group of 'critical friends' whose role was to advise the Police. Issues of integrity were mentioned and the IAG was briefed that it would hear of 'dreadful matters', a term understood to mean the possible demise or abuse of children at Haut de la Garenne. It is clear from the minutes that DCO HARPER emphasised to the IAG that '*nothing was out of bounds within the terms of reference*'. He warned members that the community would be speaking to the IAG about the investigation, the victims, the community, the impact on other agencies following arrests and the media's interest. This was the very first time an IAG had been held in Jersey. It was a new experience for everyone concerned including the Police. It does not appear that any form of training or other preparation was considered for members – certainly none was delivered.

4.5.7 The next IAG meeting was held on 26 March 2008 and was attended by three members of the ACPO Homicide Working Group namely **X**, **OFFICER X** and **X**, as well as DCO HARPER, who chaired the meeting. Minutes were taken of the IAG meetings, usually by **X**, the Personal Assistant to DCO HARPER. CO POWER attended two IAG meetings on 6 May and 19 August 2008. A combination of official IAG meetings (with police) and private IAG meetings (without police) were held on the following dates:

Date of Meeting	Type – Police/Private
13 March 2008	Police
17 March 2008	Police
26 March 2008	Police
18 April 2008	Police
6 May 2009	Police (CO POWER attends)
27 May 2008	Police
6 June 2008	Private meeting only
16 June 2008	Police
27 June 2008	Private meeting only
18 July 2008	Private meeting only
1 August 2008	Private meeting only
19 August 2008	Police (CO POWER attends)
23 October 2008	Police
5 November 2008	Police
25 November 2008	Police
5 December 2008	Police

4.5.8 From the outset, minutes were not circulated for security reasons. Therefore, IAG members read and agreed them prior to the commencement of the next meeting. There was a strong feeling from members **X** and **X** that the minutes were not a true reflection of what was discussed. DCO HARPER was concerned about sensitive documentation/information being divulged and, therefore, wanted the minutes to be brief and limited in detail.

- 4.5.9 One member of the IAG, **X**, took detailed notes of the meetings for **X** own records. From these notes, **IAG MEMBER X** prepared a typed account of the detail contained within it.
- 4.5.10 By June 2008, the IAG was becoming dissatisfied with the information provided by DCO HARPER. This, in turn, led to the situation where the non-police members opted to hold separate, private meetings without the police present. All of the non-police meetings were attended and a record kept, by **IAG MEMBER X**.
- 4.5.11 Two key issues hindered the success of the IAG which eventually led to a breakdown in communication between DCO HARPER and the Group. Firstly, the IAG raised its concern that some two months after appointment, it still did not have a proper 'job description' and there was a lack of clarity as to what was expected of members. Secondly, the IAG raised directly with DCO HARPER, the matter of detailed information relating to Operation Rectangle appearing on a 'blog' authored by Senator Stuart SYVRET. DCO HARPER informed the members that he had taken coffee with the Senator at his home, but did not directly answer their question. In summary, the IAG wrote to DCO HARPER expressing concerns on 6 June 2008, 1 July 2008 and 21 July 2008 and to CO POWER on 4 August 2008.
- 4.5.12 A further breakdown arose when the IAG placed a notice in the Jersey Evening Post during June 2008. The Group had done so intending to publicise the IAG's function and to invite members of the public to contact members with any concerns about child abuse and the enquiry via a PO Box set up at the same time. Prior to doing this, the IAG discussed the matter with DCO HARPER who was not, evidently, against the idea, having agreed both the content of the notice and to pay for the PO Box from Operation Rectangle funds. However, the Attorney General was concerned about the effect such a notice could have on Operation Rectangle, as it may have been perceived as '*advertising for evidence*'. He raised his concerns with

CO POWER who, in turn, raised them with DCO HARPER. IAG members were now aggrieved that having acted in good faith by consulting and obtaining DCO HARPER's approval, they were being openly castigated, with, by now, no support from CO POWER or DCO HARPER. They felt DCO HARPER was also back-tracking on his commitment to supporting them. A copy of the press notice can be found appended to this Report in the Evidential Bundle.

4.5.13 Members of the IAG reiterate that the notice was produced with the knowledge of DCO HARPER, it was drafted by the States of Jersey Police Press Officer, **X**, and was paid for by the States of Jersey Police. This is in direct contradiction to the conclusion drawn by the ACPO Homicide Working Group which, in Section 4.3 of their final report dated 30 June 2008, states *'the ACPO HWG team are also concerned that the IAG undertook this public poll without reference to and discussion with, the SIO'*. On balance, this Inquiry is inclined to accept the account of the members of the IAG. All five members refer to the prior knowledge of the SIO as does **X**. **X** comments in **X** statement *'I also had involvement direct with the IAG when I met with them to arrange a press release giving details on how the community could make contact with them. I did this in the knowledge that Mr HARPER had agreed with the IAG that this could be done but he was not actually involved with the production of this release.'* Ex-DCO HARPER states his understanding as follows *'I had agreed that they could publicise their existence and how the public could make contact with them. I was not aware that they intended inviting comments on how the investigation was being handled'*. Whatever the facts, relationships became strained.

4.5.14 On 1 July 2008, **IAG MEMBER X** on behalf of the IAG members e-mailed DCO HARPER raising concerns over their role and what was expected of them. As no response was received, a second e-mail was sent on 21 July 2008. It was apparent by this time that the IAG was feeling ignored and was concerned that there had not been any

recent official meetings with the Police. However, despite the lack of Police contact the Group continued to receive feedback from the community *'following our joint e-mail to you we are disappointed not to have received an acknowledgment, even though you may not have been operational, we presume that the investigation proceeds. As we have not attended any meetings with the investigation team for over a month and since we continue to receive both written and verbal communications from the community we have arranged a number of meetings of the Group in order to clear responses and the like. We have again decided to communicate our apprehension to you so that our concerns are recorded'*.

4.5.15 The IAG was 'puzzled' about its role in the investigation and expressed concern at the complete lack of forewarning members received prior to press releases. The e-mail continued to highlight the impact the investigation was having on the public and the feedback they had received as a group indicating that public expectation had been raised, but which was not being met by the results of the investigation. The IAG emphasised public concern that confidential information was continuing to appear in public *'comment continues to be received on information being published in the Public Domain that by normal practice should have remained confidential to the investigating team. Many people have expressed unease as to where this information, which certainly cannot be classified as idle speculation, is emanating, it certainly is not from the IAG and this in itself is causing the Group members deep concern'*.

4.5.16 DCO HARPER's response informs the IAG why his official meetings with them had ceased, highlighting the Attorney General's concerns about the existence and appropriateness of the group *'there have been some issues between them, the AG and the Chief Officer which I have not been involved in. I deliberately refrained from commenting on the AG's call for the group to be disbanded'*. DCO HARPER appears to take issue with the public view expressed to him by the IAG that the nature of press releases had elevated public expectation

to a level much higher than the results appeared to deliver *'I take issue with the observation that information being provided has managed expectations to a higher degree than tangible results have shown. We have three going through the courts, files with the lawyers, and all of this compares favourably with similar enquires elsewhere'*.

- 4.5.17 DCO HARPER also took issue with the view represented by the IAG, that confidential information had somehow been published in the public domain *'I am not sure what information is being published in the public domain which should have remained confidential and, in any event, I do not know how the group would make that judgement. I am not aware of any FACTS which the media have published which are in that category'*.

4.6 Gold Group

- 4.6.1 Section 3.3.3 Murder Investigation Manual states *'Where an incident falls within the definition of a critical incident, the nominated chief officer (or other chief officer as appropriate) must declare the matter a critical incident and ensure that the investigation team know this. The chief officer should then arrange a Gold Support Group'*.
- 4.6.2 This Inquiry has established that a Gold Group was not formed until September 2008, when David WARCUP was appointed DCO. DCO HARPER had held strong views and had agreed with CO POWER that a Gold Group would not be formed. According to DCO HARPER *'my understanding of Gold Groups is that they are used fairly frequently on the operational side of policing. I understand that they are to look at the overall strategy and would be attended by the SIO, Chief Officers and other agencies such as Social Services, Education and Health. That would cause a problem because people from Social Services and Education were suspects in the investigation. This is why I did not want a Gold Group'*. He had also resisted the involvement of anyone outside the Police and had been running the enquiry as a single-agency investigation.

Indeed, the first recorded decision in DCO HARPER's Policy Book setting out the 'main lines' of enquiry' confirms as much, although there is notable absence of a reason given for the decision *'Operation Rectangle is a single-agency led investigation into historical child sexual abuse involving a number of institutions in Jersey.'*

4.6.3 The decision not to have a Gold Group was discussed between the ACPO Homicide Working Group and DCO HARPER.

X states *'It had been noted by the HWG Team from the policy books that such a consideration had already been made by the SIO and he specified his reasons for not having one. Whilst there was further discussion between Mr HARPER and the HWG Advice Team regarding a Gold Group, he reiterated his reasons as to why he thought that one would not work saying such a group would not be helpful in this particular case. Having raised the issue, it is the SIOs decision as to whether he wishes to pursue the suggestion'*. DCO HARPER considered the Gold Group to be a 'non-starter' as he believed that, of those likely to sit on it, some were suspects within the Operation.

4.6.4 **X** of the ACPO Homicide Working Group states **X** recalls discussing the advantages of Gold Groups with both CO POWER and DCO HARPER. However, both informed **X** they did not want one. Within **X** statement **X** comments *'We then talked about forming a Gold Group and Lenny stated that that they were not having that yet as all possible players in Jersey have a possible link to the suspects. We discussed the use of using people from the UK or outside'*. **X** continues *'we met with Graham POWER and Lenny HARPER and toured the site. We discussed with them the forming of a Gold Group. Both Graham POWER and Lenny HARPER said that they did not want a Gold Group. We then tried to convince them of the value of an IAG, Graham POWER said he would be happy with an IAG'*.

4.6.5 DCO HARPER's interpretation of these discussions is 'X (X) and Graham POWER were quite happy that a Gold Group was not a good idea. In the absence of such a Gold Group, I received my strategic direction from ACPO HWG and from Graham POWER. There was very little that I did not discuss with Graham POWER. I discussed the way forward frequently and his views were stronger than mine on occasions'. Further comments regarding this can be seen in OFFICER X statement, 'a Gold Group is a necessity when an incident is declared critical. I did not doubt that we were dealing with a critical incident where the effectiveness of the police response was likely to have a significant impact on the confidence of the victims and the community'.

4.6.6 Nevertheless, in the light of a clear decision having been made, apparently jointly by CO POWER and DCO HARPER, not to convene a Gold Group, the ACPO Homicide Working Group did not make a formal recommendation for such a group to be established. ACO WARCUP sets the scene quite explicitly as far as his management was concerned 'during the weeks following my appointment Mr POWER showed little or no direct interest in the enquiry and provided no direction or instructions.' ACO WARCUP explains 'I established a Gold (Strategic Co-ordinating) Group and invited a member of the Law Officers' Department to participate, together with a representative of the Chief Minister's Department, which had oversight of all States Departments, including Health, Social Services and other key departments who could assist in furthering the enquiry. In addition a Senior Officer from the Home Affairs Department was invited to join the group. Broadly speaking, the Group is a multi-agency group responsible for developing strategy in relation to the incident in question. The Group should develop policy and guidance and give direction to the Senior Investigating Officers and others who are responsible for delivering the tactical 'day to day' response to the incident. The Gold Group

would consider such matters as: Enquiry Parameters; Resourcing; Finance; Media; Any areas of risk and potential criticism. The first meeting of the group was held on Monday 1 September 2008'.

4.6.7 CO POWER would have it, however, that it was at his direction that ACO David WARCUP acted, *'I note from the disclosure evidence provided that all relevant witnesses confirm the success of the Gold Group, established under my command and on my instructions. I note that the Gold Group was operating successfully for over two months before my suspension. I believe that my timing for the establishment of a Gold Group was correct, and I will give reasons for this later in this statement'*. CO POWER is correct in his assertion that the Gold Group was established two months prior to his suspension. However, this is as far as the available evidence is wholly in agreement with his position. ACO WARCUP details in great depth the position he found when he joined the States of Jersey Police and describes, in equal depth, the positive measures he took to address the inadequacies and failings he encountered. His statement should be considered in its entirety in order to gauge fully the impact of his comments. To illustrate the point relating to Gold Groups, ACO WARCUP has included the agendas of his meetings in his statement, together with factual and specific reasons for his actions. When balanced against an equivocal and unspecific account given by CO POWER, who stated to

OFFICER X that he did not know what a Gold Group was *'when I questioned Mr POWER about this issue he stated he had no knowledge of Gold Groups and no experience of them'*, it is ACO WARCUP's account which appears more credible, in the view of this Inquiry. However, we do accept that CO POWER agreed to the formation of a Gold Group, albeit at other's instigation.

4.6.8 CO POWER's rationale for the delay in establishing a Gold Group is provided in his statement where he states *'Lenny has documented his reasons for not establishing a Gold Group in December 2007. In summary these relate to the fact that there were allegations touching*

upon potential partner agencies, and that the establishment of a group at that time could involve the risk of compromise. He was right in that decision. In the early rush of activity after Rectangle became public knowledge, allegations of involvement, conspiracy and cover-up were flowing thick and fast. Prominent individuals were being 'named' and it was impossible to predict where all of the allegations were leading. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done when the evidential picture had achieved a level of stability which was not present in the early stages. It was through this chain of events that the Gold Group came into being and was launched at a time when it had the maximum chance of success. I am pleased that this new innovation in the policing of the Island has proved successful. I attribute much of its success to the preparation and timing which I brought to its introduction'.

4.7 Baseline assessments by Her Majesty's Inspectorate of Constabulary

4.7.1 In 2006, Her Majesty's Inspectorate of Constabulary (HMIC) conducted a baseline assessment of the States of Jersey Police. A review of progress was made in 2008 to establish whether the issues identified in the 2006 assessment had been completed. Both documents refer to the States of Jersey Police's management of critical incidents. The States of Jersey Police reported to HMIC that it was aware of the concept of critical incident management, but comment in the Force's Self Assessment Response to HMIC in March 2006 that *'critical incidents and major crime are rare for the Force. However, in an island community with an expectation of a high standard of service for lower level crime issues, the definition of critical incident and major crime will include matters that fall outside the definition elsewhere'.*

4.7.2 The 2006 Self Assessment Response identifies that the States of Jersey Police needed to improve its position and undertake formal

training in relation to critical incident management. However, HMIC recognised as a strength that the States of Jersey Police crime screening and investigation policy included the definition of a critical incident and that control room staff had undertaken generic training which included, amongst other things, an input on critical incident management. A further strength identified in the same document, was the use of CIAs as part of the overall operational response *‘in the event of any critical incident and major crime, community impact assessments are carried out as part of the overall operational response and reassurance messages as disseminated. Honorary police liaison ensures that early signs of concern amongst the general populace are identified’*. This Inquiry is aware that these ‘strengths’ are, of necessity, based on the information the Force provided to HMIC which assumes the veracity of what it is told.

4.7.3 Within the body of the 2008 ‘Revisit’ Report, it is noted that the States of Jersey Police provided some awareness briefing and input to staff on critical incident identification and actions to be taken, but the Report recommends that training should be provided to operational officers, supervisors and control room operators.

4.7.4 This Inquiry concludes that critical incident identification and management was relatively immature as a professional requirement on the Island and considerable further development was necessary to meet standards. However, we are clear that the need for critical incident management was known to a number of middle managers in the Force and the ACPO Homicide Working Group, each of which drew the requirements to the attention of DCO HARPER and CO POWER.

4.8 Key issues identified

4.8.1 This Inquiry has identified seven key issues directly relating to the management of Operation Rectangle by CO POWER as a critical incident. These have been gleaned by careful examination of the manuals of guidance and then assessing whether the actions of

CO POWER ensured Operation Rectangle was being managed in line with these criteria.

Issue 1 Declaring Operation Rectangle as a critical incident.

Issue 2 Establishing a Gold Group from the outset and, particularly, following the events of 23 February 2009.

Issue 3 Identifying the need for a CIA from the early stages of Operation Rectangle in September 2007 and reviewing the need for a CIA at significant points.

Issue 4 Establishing an IAG with clear terms of reference; ensuring appropriate membership of the IAG and adequate support to the IAG.

Issue 5 Resolving concerns raised by the IAG.

Issue 6 Establishing Operation Rectangle as a single-agency led investigation.

Issue 7 Commissioning a review of Operation Rectangle in line with best practice.

4.8.2 This Inquiry has identified a number of experts in fields relevant to this discipline investigation. In the case of critical incident management, there are two key witnesses; **X**, an expert in the formation, structure and management of IAGs, and **OFFICER X**, the Author of Practice Advice on Critical Incident Management 2007. Throughout this Section the professional opinions of both are referred to.

4.9 Issue 1 – declaring Operation Rectangle as a critical incident

4.9.1 It is evident there was a difference of opinion between DCO HARPER as SIO and **OFFICER X** as Deputy SIO regarding the assessment of Operation Rectangle as a

critical incident. There are also contradicting policy book entries made by **OFFICER X** on 13 December 2007 and later by DCO HARPER on 28 December 2007. Initially, DCO HARPER agreed that Operation Rectangle was a critical incident, however, his second decision effectively down graded it as he describes it as only '*technically a critical incident*'. There is little doubt that it was considered to be a critical incident by those individuals engaged on the Operation and commissioned specialists, such as the ACPO Homicide Working Group, who refer to the SIO declaring the investigation a '*critical incident and a Cat A+*'.

4.9.2 DCO HARPER justifies his decision-making in relation to this by relying upon the context and size of the Island. He asserts '*I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions*'. However, it is the very completion of a CIA, in a thorough and professional manner, which would have identified whether or not community tensions were likely. In the view of this Inquiry, this is a case where DCO HARPER may have put the 'cart before the horse'. In addition, DCO HARPER states there will be no Gold Group because of the '*involvement of other agencies in the allegations and the additional possibility of Crown Advocates being appointed imminently*'. These comments may suggest some confusion by DCO HARPER as to what a Gold Group is and what its structure should be.

4.9.3 We are unable to comment whether the decision over the declaration of Operation Rectangle was a unilateral decision or one made in consultation with CO POWER. If DCO HARPER and CO POWER are taken at their word, with the regular meetings and briefings that occurred between them, CO POWER should have been aware of the issue. It is a common feature that none of the policy books for Operation Rectangle provide any indication of having been examined by CO POWER. This Inquiry accepts that, unlike policy books in use throughout the UK, the States of Jersey Police policy books are not designed with space for a supervisor to 'sign and check'. The States

of Jersey Police may wish to consider revising their policy books to incorporate this element. However, it is obviously good practice for the SIO's supervisor to check policy documents so as to be reassured of the SIO's competence and the planned direction of the enquiry. In the view of this Inquiry, this is good practice. In any event, either CO POWER knew and sanctioned the approach taken by his DCO not to record Operation Rectangle as a critical incident or did not know and should have, and would have, if he had provided strategic direction to the enquiry as was CO POWER's duty.

4.9.4 It is the clear view of **OFFICER X** that Operation Rectangle demonstrated all the characteristics of a critical incident *'It is felt that had DCO HARPER displayed better leadership and understanding of the management of critical incidents and not countermanded his earlier decision agreed with his deputy, a different more manageable progression of events may have occurred'*. It is also **OFFICER X** view that the potential for Operation Rectangle to become a critical incident could have been identified during the scoping in September 2007, when Operation Rectangle was a covert investigation or in November 2007 when it became public knowledge. This view is echoed by **OFFICER X** who says *'Other key issues I feel should have been addressed by the supervisor of this case are the lack of a Gold Group, Independent Advisory Group, Community Impact Assessment, and the involvement of key partners at a senior level. The Murder Investigation Manual 2006 states that where an incident falls into the definition of a critical incident the nominated Chief Officer (or delegate) must declare the incident a critical incident and ensure the investigative team know this. It is my view that this was clearly a critical incident within the Island and the role of a Gold Group would have supported both Mr POWER, the investigation and the wider community'*.

4.9.5 Throughout his statement, CO POWER demonstrates his understanding of the concept of critical incident management. He

explains how he took an interest in it following a police vehicle fatality *'sometimes guidelines and working practices developed in other jurisdictions can form the basis of local procedures. The best way to illustrate this might be to refer to a real issue which is relevant to this enquiry. That is, the concept of a 'critical incident.'* I took an interest in this about three to four years ago. One afternoon I was in my office when I made a routine computer check on live incidents. I read one entry which said that there had been an incident involving a police vehicle and two people were dead. I went to the control room and established that a police car on its way to an incident had been involved in a collision with another vehicle. It later transpired that only one person was dead and the other badly injured. I realised that this would have significant implications. I established a separate command and control for the incident and allocated different people to lead on the different areas or responsibility. These included contact with the Law Officers, the Minister, the Media and the Jersey Police Complaints Authority, as well as the customary actions regarding scene management and related issues. As the dust settled I began to wonder what would have happened if I had not been there. Would the staff on duty have known what to do, and did we have operating procedures which would cope with such a situation?'

- 4.9.6 This fatality appears to have led CO POWER to discuss the concept of 'critical incidents' with his colleagues. CO POWER suggests that he raised the subject of critical incident management in the Force Executive Strategy Group though he cannot recall the date. He states *'this type of project would have followed a familiar process. When we identify a deficiency in local policy and procedure somebody is allocated to prepare a paper. This would involve research into how things are done elsewhere. It is possible that ACPO procedures might be examined. The person responsible might take ACPO guidelines and amend these to take account of local law and procedure. It might also be necessary to translate any ACPO guidance into a more reader-friendly language.'*

- 4.9.7 Unfortunately, CO POWER cannot recall if the work was ever completed. However, he explains how, in usual circumstances, a paper of this kind would have been circulated through police management meetings for approval. It would then be a matter for him to decide whether there was a need for political ownership. He writes *‘in the case of the Force adopting English guidelines for use locally this would probably be the case.’* Finally, he would have presented it at a Ministerial meeting with the Minister for Home Affairs and the Assistant Minister. This implies that all potential procedural changes would be presented in this fashion prior to formal ratification by the Chief Officer.
- 4.9.8 ACO WARCUP holds a different view. He states that the Chief Officer is able to create policy for the States of Jersey Police without regard to agreement from the politicians. Former Home Affairs Minister Andrew LEWIS also comments that unless the issue requiring change is ‘publicly controversial’ or has a financial implication that is in excess of the current budget, then the head of the Force would have the freedom to introduce any new working practice or operational guideline as they saw fit. On balance, this Inquiry believes that CO POWER could have developed critical incident management processes within the Force without the leave of politicians.
- 4.9.9 If true, the scenario described by CO POWER demonstrates his awareness of ACPO/NPIA guidance on critical incident management some years prior to Operation Rectangle, yet he allowed the enquiry to progress without apparent regard to such guidance. This view is also held by **OFFICER X** who says in **X** report *‘while I understand that the operating context and small size of the SoJP requires different considerations for a very small chief officer team, I find it inconceivable the Chief Officer POWER would not have been aware of the professional practice guide published to the service as a whole by NPIA on behalf of ACPO, particularly given that the HMIC baseline reviews undertaken in this Force in March 2006 and*

March 2008 make copious references to critical incident procedures and training extant in the Force at the time'. Examples of the references to which OFFICER X refers can be seen in the HMIC Baseline Assessment 2006, Force Self Assessment which is included in the Evidential Bundle accompanying this Report.

- 4.9.10 CO POWER held the position of Assistant to Her Majesty's Chief Inspector of Constabulary of Scotland from 1998 until 2000. This was a crucial time in the development of critical incident 'thinking' which evolved from the Stephen Lawrence Inquiry. OFFICER X describes the publicity from the Inquiry as being 'massive'. *'Critical incident thinking in ACPO evolved from the Stephen Lawrence Inquiry which published its report in February 1999. There had been massive national publicity throughout 1998 from the time the Inquiry was announced by Jack Straw, and this was not confined to London, particularly when phase two of the Inquiry travelled the country. The unexpected admission of 'Institutional Racism' in his Force by Sir David Willmot, Chief Constable of Greater Manchester Police, was particularly well reported'. At this time in his role as Assistant HMIC in Scotland, CO POWER advised on policy. OFFICER X continues 'During this period, Mr POWER was the Assistant to the HMCIC of Scotland where he was required to advise on policy (para 10). He makes the point (in para 9) that, when on the executive of ACPO (S) there was a mandate to preserve the distinctive nature of Scottish policing. However, from my own experience of ACPO Crime Committee, I have always observed the membership and attendance of Scottish colleagues representing ACPO(S) and their interest and enthusiasm to maintain contact with professional developments in the rest of the UK. The Strategic Command Course hosts all national senior officers and some of the course is held in Talliallen'[sic]. This Inquiry would be surprised if CO POWER was not aware of the Stephen Lawrence enquiry and its call for critical incident thinking.*

4.9.11 It is **OFFICER X** view that CO POWER should have known of professional developments in critical incidents since 1998. *‘On the other hand, the following factors have strengthened my view that CO POWER could and should have known of professional developments on critical incidents since 1998 and his declared position of professional ‘ignorance’ is barely credible, given that:*

- *The Stephen Lawrence implications for command and control seem to have escaped Mr POWER’s attention when an HMI in Scotland with responsibility for policy development*
- *He did not pick up any ‘intelligence’ (other than described in para 5 above) on this development from discussions with colleagues during his frequent UK contact since his appointment as Chief Officer in December 2000*
- *He did not hear about critical incidents when, in company with fellow UK Chief Officers, he was assessing HPDS candidates*
- *He did not notice the Flanagan [sic] Report into the Soham murders (which in 2004 recommended that ACPO adopt the critical incident definition for all forces)*
- *He did not grasp the implications for critical incident management from Denis O’Connor’s 2004 report ‘Mind the Gap’*
- *He did not recall the detail of the 2006 and 2008 HMIC reports into his own force*
- *He did not know that his DCO (who clearly did know something of the guidance) made a specific policy decision to act outside of the ‘manual’ (Exhibit MGG/5 Decision 8)’.*

4.9.12 CO POWER makes it clear that he was not involved in decisions regarding the application or otherwise of critical incident guidelines – these were made by the investigating team and specifically DCO HARPER. *‘Decisions relating to the application or otherwise of critical incident guidelines were taken by the investigating team and in particular by Mr HARPER, who was the ‘Chief Officer’ responsible*

for the enquiry. I recall no direct involvement on my part and would not necessarily expect to be involved in the kind of details which, for example, are included in the comments of OFFICER X as described above’.

4.9.13 Whilst it is accepted that the key decisions concerning critical incident management were made by DCO HARPER as SIO, the point has been emphasised elsewhere in this Report, that the only person in a position to provide strategic direction to, as well as management and supervision of, DCO HARPER, was CO POWER. This Inquiry is concerned that CO POWER was prepared to abrogate his responsibilities in the manner he describes.

4.9.14 DCO HARPER’s attitude to critical incident management is also worthy of comment *‘I feel that always trying to work to the ACPO manuals would be trying to work to standards adopted in the UK and it seems to me that most of those were introduced to deal with the problems the Met had with investigations involving ethnic minorities. There was a lot which we did not follow because it was not relevant and some which we did adopt caused us problems later such as difficulties over the role of the IAG. I resisted the need for a Community Impact Assessment. I felt that we did not need one because we had no community tensions. I agreed to it because the Manual says that we should do it. However, this was not South London, Belfast or Moss Side. It became a priority action but not a top priority’.* This Inquiry views DCO HARPER’s lack of understanding of the concept of critical incident as concerning. Given the frequent contact between DCO HARPER and CO POWER, we expect that CO POWER should have been aware of his DCO’s views and to have engaged positively to ensure effective critical incident management was in place. This would have helped to pre-empt and resolve public, press and political concerns of which there were a number in Operation Rectangle.

4.9.15 CO POWER’s approach was that officers should selectively use UK guidelines that they consider to be relevant locally *‘what is evident is*

that Jersey officers are showing an awareness of UK guidelines and are effectively 'cherry picking' those aspects which they see as locally relevant. That is what they are supposed to do'. It appears to this Inquiry that CO POWER was aware of critical incident management, but consciously chose to manage Operation Rectangle in his own way, effectively ignoring many aspects of accepted good practice.

4.9.16 **OFFICER X** refers to the ACPO/NPIA guidance as being just that, and not in anyway legally binding on UK forces; just good practice. It would be surprising if the same principles of best practice had no application to Jersey.

4.9.17 DCO HARPER's understanding of critical incidents was outdated and CO POWER, the only officer in the States of Jersey Police in a position to manage DCO HARPER, either allowed these decisions to be made or failed to provide supervisory oversight to detect and challenge them. **OFFICER X** concludes *'it is felt that had DCO HARPER displayed better leadership and understanding of the management of critical incidents and not countermanded his earlier decision agreed with his deputy, a different, more manageable progression of events may have occurred. In the event, what transpired was, on any assessment against the ACPO definition of a critical incident, a tier 3 (force level and one for chief officer leadership – guide 3.6/27) critical incident for the States of Jersey Police'*. DCO HARPER's failure on such a significant issue should have been addressed by CO POWER. We are aware of no compelling evidence that he did so.

4.9.18 Ultimately, there was a failure to declare Operation Rectangle a critical incident. It should have been identified as such in the initial assessment of the scope of the investigation in September 2007. If not then, at least when the investigation became public knowledge in November 2007 and also again on 23 February 2008. At least three opportunities were missed; each compounding the last as public, political and media reaction to revelations gained momentum.

- **Recommendation 3**

4.9.19 **The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.**

- **Recommendation 4**

4.9.20 **The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.**

4.10 Issue 2 – Establishing a Gold Group from the outset and particularly following the ‘find’ on 23 February 2008

4.10.1 A Gold Group was not formed until DCO WARCUP's appointment on 4 August 2008. Indeed, the inaugural meeting was chaired by him on 1 September 2008. He is clear about precisely how he came to form the Group, whilst CO POWER would have it that it was at his direction that the Group was set up. ACO WARCUP is explicit that it was something he immediately identified as essential and discussed with the Chief Officer, from whom he met initial resistance. He states CO POWER was reluctant to see the arrangements put into place, particularly when the then DCO WARCUP's desire to adopt multi-agency arrangements with strategic partners was raised. It was made clear to DCO WARCUP that CO POWER continued to oppose involving other agencies, due to the potential confidential nature of the enquiries *'I indicated to Mr POWER that it would be my intention to form a Gold (Strategic Co-ordinating Group) and to put in place a proper structure to manage the enquiry. Initially Mr POWER was reluctant to see these arrangements put in place, particularly as I had indicated that the Gold Structure would be a multi-agency arrangement and would involve other strategic partners. As a result of further discussions it was agreed, however, that I would put arrangements in place in view of the fact that it was established good*

practice. Details of the composition, terms of reference and other administrative details in relation to establishing a Gold (Strategic Co-ordinating Group) were not discussed in detail with the Chief Officer at this time. It was apparent to me that despite the fact that Mr POWER had accepted the need for a Gold Group he clearly maintained a resistance in respect of involving other agencies due to what he described as the potential confidential nature of enquiries and the potential conflict of interest within a small Island. Indeed, when discussing matters relating to the enquiry, he referred frequently to the personal relationships which exist between local people and how such issues caused problems in relation to policing within the Island'.

- 4.10.2 CO POWER attempts to explain why he agreed with DCO HARPER not to establish a Gold Group in December 2007 and accepts that the issue was discussed with X of the ACPO Homicide Working Group in February 2008 *'I remember discussing 'partnership working' more than the concept of a 'Gold Group', although the two concepts are basically the same. These discussions were with Lenny Harper and X and also, I think, with Wendy Kinnard, although I am less sure of the latter. Lenny Harper has documented his reasons for not establishing a Gold Group in December 2007. In summary, these relate to the fact there were allegations touching upon potential partner agencies, and that the establishment of a group at that time could involve the risk of compromise. He was right in that decision. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done when the evidential picture had achieved a level of stability which was not present in the early stages'.*
- 4.10.3 It should be noted that this is an explanation offered by CO POWER when making his statement to Operation Haven. In doing so, he is looking back over events and may be offering now an explanation in answer to suggestions of professional failings on his part. There is a

weight of evidence in contradiction of his position and no meaningful documentation exists in support of his assertions. Indeed, CO POWER informed **OFFICER X**, when they met on 29 October 2008, that he had never held a Gold Group and would not know how to do so *'When I questioned Mr POWER about this issue he stated he had no knowledge of Gold Groups and no experience of them'*. **OFFICER X** notes of their meeting suggest CO POWER maintained contact with **X** of the ACPO Homicide Working Group, due to his (CO POWER's) inexperience in this area. CO POWER also appears to suggest to **OFFICER X** that had he been recommended to form a Gold Group by the ACPO Homicide Working Group he would have done so, thereby apparently apportioning blame for a lack of professional guidance on the ACPO Homicide Working Group.

- 4.10.4 **OFFICER X** is concerned that of the 27 recommendations raised by the ACPO Homicide Working Group in their first report, there is no reference or recommendation relating to a Gold Group in line with the ACPO critical incident guidance. It is a fact that the ACPO Homicide Working Group did not make such a recommendation within their reports. What cannot be easily reconciled is the apparent disparity in the discussion around Gold Groups between **X**, CO POWER and DCO HARPER, and the disclosure CO POWER later makes to **OFFICER X** concerning his (CO POWER's) lack of knowledge on Gold Groups. The overriding impression that remains for this Inquiry is that CO POWER failed properly and fully to put in place the structure and mechanism to manage all aspects of Operation Rectangle and its effect on the Force and public. Whilst others – such as DCO HARPER and the ACPO Homicide Working Group – must also accept some culpability for their in-action or lack of recommendation, the final responsibility rests with CO POWER. It should be noted that this is not some abstract responsibility; Operation Rectangle was a

major enquiry by any measure and one which required the full and proper engagement of CO POWER to ensure its smooth running, both as a criminal investigation and as the primary instrument to secure and monitor public confidence.

- 4.10.5 It is a recurring theme that both CO POWER and DCO HARPER considered it undesirable to establish a Gold Group due to the allegations of establishment collusion, conspiracy and cover-up. DCO HARPER describes the situation as he saw it a very bleak way *'in respect of the media approach, it has to be remembered that victims' confidence with the Police was rock bottom. Views of Social Services, Education and the Attorney General were all tainted in the eyes of the victims because of their previous attempts to tell of their experiences. They were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and transparent and not affected by those such as the Government and lawyers. That was against a backdrop of politicians widely known to have committed offences such as assaulting their wife and importing porn. I had to take some sort of action to make sure that we were trusted and that people would come forward'*.
- 4.10.6 CO POWER echoes this view *'there was a convincing argument that there was not yet sufficient clarity around who, in the potential partnerships which would constitute the group, might be directly or indirectly compromised as a consequence of the investigation. After discussion I decided that we would press ahead and form an IAG. All that I knew about an IAG was what X told me at the meeting.'*
- 4.10.7 However, Section 3.3.3 of the Murder Investigation Manual 2006 provides a list of essential and discretionary members of Gold Groups. Whilst the discretionary list would suggest the involvement of those in the legal profession and local authority officers, whom we accept that the SIO and Chief Officer had some concerns over, close examination of the 'essential' list does provide feasible alternatives.

The list suggests that a Gold Group could have been successfully convened. For example:

4.10.8 Essential

- ACPO Chair – CO POWER
- Media Adviser – **X**
- Line Supervisor of SIO – CO POWER
- The SIO or IO – DCO HARPER
- BCU SMT Member – **OFFICER X**
- Staff Associations – Suitably trusted member

4.10.9 Discretionary

- IAG Member(s)
- Police Specialists
- NSPCC

4.10.10 Further weight is added to this argument by **OFFICER X** *‘a Gold Group was later formed by DCO Warcup when he took up his post and, from the minutes, seems to follow the spirit of ACPO guidance and practice without apparent difficulty’.*

4.10.11 It is the view of **OFFICER X** that, on balance, and with careful negotiation, most of the issues anticipated by the SIO could have been overcome. It is the opinion of **OFFICER X**, who accepts that other than the involvement of the NSPCC, there was no consideration being given to alternative solutions, that *‘while the rationale for not following the guidance with respect to Gold Groups may have been based on sincerely held concerns by DCO Harper, there is no evidence of any consideration given to alternative or bespoke solutions other than to involve the NSPCC by attachment to the inquiry team (OFFICER X). Nor does he [DCO HARPER] appear to have considered the benefits for SoJP of proper oversight and coordination within the Force’.*

4.10.12 Those professionals now involved in assessing Operation Rectangle conclude that a Gold Group should have been formed.

OFFICER X of the ACPO Homicide Working Group

states that Operation Rectangle was a critical incident and in the UK a Gold Group would have been established.

- 4.10.13 Detective Superintendent Michael GRADWELL's evidence suggests the difficulties encountered as a direct consequence of omitting this vital Group. *'There was no provision for intelligence sharing within the Force and due to the lack of a Gold Group there was no co-ordination or understanding of on-going operational issues.'*
- 4.10.14 ACO WARCUP describes the formation of a Gold Group as normal practice in critical and major incidents *'an incident is defined as either 'critical' or a 'major incident' it is normal practice for a Gold Group or Strategic Co-ordinating Group to be established. The functions and membership of a Gold Group will inevitably vary according to the nature of the incident'*.
- 4.10.15 Whilst the rationale for the Gold Group not convening until September 2008 has been considered, there is overwhelming evidence from the subject expert, **OFFICER X**, and experienced senior police officer witnesses to this Inquiry that a Gold Group was critical to the successful management of Operation Rectangle.
- 4.10.16 In fairness to CO POWER, we must point out that attempts were made to incorporate aspects of a Gold Group into the remit of the IAG. However, this was unsuccessful, as there was apparent confusion between the two roles. This view is expressed by **X** who says *'there seems to have been some confusion as to the difference between the two concepts, fostered by the CO's decision not to convene a Gold Group. In many ways there was an attempt to run the IAG as if it were a Gold Group, albeit one with missing members. Within three months from the instigation of the IAG, concerns were expressed in the statement of IAG MEMBER X regarding the 'Lenny HARPER road show. These should have been acted upon by a competent Chair of a Gold Group, had one existed'*.
- 4.10.17 It is the opinion of **OFFICER X** that the command and control structure for the management of Operation Rectangle did not comply with the standards set out in the professional practice guide. **X**

suggests CO POWER is responsible and accountable for the failures of the States of Jersey Police to establish a Gold Group *'It was unequivocally the responsibility of CO Power to ensure a proper structure, including assuming Gold command personally if that was the best option for the particular context of SoJP. He was not helped by the approach adopted by DCO Harper, in particular, to overturn the decision to declare a critical incident in December and to reason for non-compliance with the NPIA professional practice guide'*.

4.10.18 Numerous opportunities presented themselves to CO POWER to establish a Gold Group. The first being when Operation Rectangle was declared a critical incident in December 2007. Whilst this was not taken, the next most obvious opportunity arose following the developments of 23 February 2008. Based upon ACPO guidance and current best practice, **OFFICER X** advises that Operation Rectangle failed to implement or adhere to appropriate standards *'upon the declaration of a critical incident in December 2007, all appropriate aspects of the guide should have been implemented, and if not then, no later than the discovery of what were thought to be the remains of a child at HDLG in February 2008 (OFFICER X). At this stage, it was obvious that the investigation was now at a new and much more potent level of public concern – the possible murder of children in the care of the state perpetrated by those responsible for their welfare and safety'*.

4.10.19 This Inquiry is clear that CO POWER and DCO HARPER appear to have honestly held beliefs that key people, who may otherwise have been considered for inclusion in a Gold Group, were either untrustworthy or potentially suspects in the investigation. As stated above, this could and should have been overcome through consideration of the requirement for 'essential' and 'discretionary' members of Gold Groups. There is also an absence of any policy decision from which further conclusions can be drawn. Where departure from the guidance occurs, it is imperative that documented reasons for doing so are recorded justifying the departure and putting

alternatives in place. There are no decisions regarding strategic oversight recorded of which we are aware.

4.10.20 This Inquiry concludes, in the light of CO POWER's refusal to instigate a Gold Group following discussion with **X** and DCO HARPER, and CO POWER's admission to

OFFICER X that *'he had no knowledge of Gold Groups and no experience of them,* the contents of CO POWER's statement may be no more than an attempt to justify his failings. Even if the reasons he provides for 'delaying' the instigation of a Gold Group are accepted as valid, they are not so significant as to be beyond a Chief Officer to overcome, given the advice available to CO POWER. **OFFICER X** rightly identifies that the ultimate responsibility with respect to the formation of a Gold Group falls to the Chief Officer *'however, as before, the responsibility and accountability for the perceived shortcomings of SoJP with respect to the formation of a Gold coordination group must fall to him as Chief Officer.'*

4.10.21 This Inquiry does not attach much significance to the apparent differences of view now expressed between **X** and the Jersey Chief Officers. We conclude that the advice of the ACPO Homicide Working Group in Operation Rectangle was sometimes ambiguous, either when given or received, and which created a false sense of security for CO POWER.

4.10.22 We do point out that it is evident from an early stage of the enquiry, that the NSPCC was involved as an independent body, an arrangement described by **OFFICER X** as *'a compromise and in accordance with suggested best practice from the ACPO Institutional Child Historic Abuse Guidelines, the NSPCC were involved at an early stage as an independent body'*. **X** also states that managing the Operation as a single-agency investigation was not the manner in which **X** was accustomed to managing investigations in the Child Protection Unit. *'This is not the way I*

would normally run investigations, as I was used to conducting joint investigations working on the Child Protection Unit’.

- **Conclusion 8**

4.10.23 **CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the ‘find’ at Haut de la Garenne on 23 February 2008.**

- **Recommendation 5**

4.10.24 **The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIOs.**

4.11 Issue 3 – Identifying the need for a CIA from the early stages of Operation Rectangle in September 2007 and reviewing the need for a CIA at significant points.

4.11.1 **OFFICER X** advises that once an incident is declared ‘critical’, all applicable aspects of the relevant guidance should be implemented. This, **X** argues, should have occurred in the case of Operation Rectangle *‘upon the declaration of a critical incident in December 2007, all appropriate aspects of the guide should have been implemented, and if not then, no later than the discovery of what were thought to be the remains of a child at HDLG in February 2008 (OFFICER X).* At this stage, it was obvious that the investigation was now at a new and much more potent level of public concern – the possible murder of children in the care of the state perpetrated by those responsible for their welfare and safety’. The ACPO policy is, as **X** describes *‘unequivocal in respect of all homicide; a CIA will be completed jointly between the SIO and local*

uniform commander within 4 hours of the first report'. This was not done. As has been evidenced, a CIA was not considered or completed until recommended by the ACPO Homicide Working Group in Recommendation 17 'that the Chief Officer and SIO consider a Community Impact Assessment and convene an Independent Advisory Group. The IAG should not include former residents at this home, could include advisors from the NSPCC or community groups. The IAG could advise on the CIA'.

- 4.11.2 This recommendation was acted on when a CIA was completed on 19 March 2008. *'On 19 March a Community Impact Assessment was completed. The first meeting of the Independent Advisory Group was held on the 13 March 2008'. By the 27 March 2008, the CIA was a standing item on the Force Management Board agenda.*
- 4.11.3 This Inquiry accepts the expert opinion of **OFFICER X** that a CIA should have been completed and a Gold Group formed once Operation Rectangle was declared a critical incident in December 2007. However, DCO HARPER held the view that a CIA was not required as there was *'no likelihood of community tensions leading to damage to community relations.'* His policy decision, written in December 2007, reads *'Decision: Not to produce a Community Impact Assessment or to establish a Gold Group in terms of the manual. Reason: Although technically a critical incident and a Cat 'A' investigation this is solely because of the context of the Island and the size of the Force. There is no likelihood of community tensions leading to damage to comm. relations. In respect of the Gold Group it is not appropriate because of the involvement of other agencies in the allegations and additional possibility of Crown advocates being appointed imminently'.* Comment has been made earlier as to the flawed logic of this approach which was in direct contradiction to the advice contained in the ACPO critical incident Guide.
- 4.11.4 DCO HARPER's policy decision of 28 December 2007 states, he will reconsider his decision-making should human remains be found or

other developments take place. *'Decision: Not to instigate external review of investigation unless it becomes a murder/homicide enquiry. Reason: At this time the enquiry is dealing with 'detected' matters ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation I will reconsider.'*

4.11.5 **OFFICER X** expresses surprise that no re-assessment took place, even following the events of 23 February 2008 when DCO HARPER himself declared that the *'partial remains of a child'* had been found at Haut de la Garenne. *'Given his view (expressed in MGG/5 decision 9) that the situation could change in the event of the investigation becoming a homicide, it is concerning that DCO HARPER did not commission a CIA on 23 February 2008. Furthermore, he declined to take up the offer to initiate one from*

OFFICER X *who had been the acting operations chief inspector on the weekend of the significant find'.*

4.11.6 To **X** credit, **OFFICER X**, on 26 February 2008 raised the subject of CIAs in the Operations Management Meeting. **X** was later informed by DCO HARPER that a CIA was not required. **OFFICER X**, a UK trained SIO, was aware that it was the role of Operations to prepare a CIA in liaison with the SIO *'I am well aware that in the UK, under the command of the Basic Command Unit (ref Murder Investigation Manual – 2006) it is the Ops role to prepare the CIA at the request and guidance of the SIO. On Monday 25 February 2008, I allocated to* **OFFICER X** *the overseeing and maintenance of the Cordon resilience. On 26 February 2008 at the Operations Management meeting, I raised the matter of the CIA being prepared. At the meeting it was determined that it would be appropriate to draft a CIA, in anticipation of the Historical Abuse Team (HAT) Enquiry requesting one – having not heard back from them, as yet'.*

4.11.7 Despite the advice of trained staff within the States of Jersey Police conversant with current standards and guidance and the practical application of them, DCO HARPER chose to progress the investigation in a different way; he demonstrated a lack of consideration towards the views of qualified staff around him.

OFFICER X also makes reference to the fact there was no pre-planning through a CIA or terms of reference for the operation *'I think it is fair to say that the Operations Management Team (myself, OFFICER X , OFFICER X , OFFICER X and OFFICER X) were all surprised by the Operation Rectangle 'investigation process'.* The group's anxieties were:

- *'That the incident was never declared as a critical incident.*
- *There was no CIA consideration.*
- *That it was a drain on our resources.*
- *That we all seemed to be excluded from the main investigative processes.*
- *There was no internal communication strategy.*
- *Our main concern was the media strategy being used by Mr HARPER because although we knew nothing internally about the case, we were learning everything we knew from SKY news and other media sources.*
- *That Mr HARPER was not a trained SIO.*
- *It was unusual to have a DCO conducting an enquiry of this nature.*
- *Despite all this there was ACPO HWG Review process in place?'*

4.11.8 CO POWER accepts he was not familiar with the concept of CIAs and made a conscious decision not to allow himself to be drawn into discussions of its relevance on Jersey. Again, CO POWER refers to the guidelines and passes responsibility to DCO HARPER who he

identifies as a Chief Officer for the purpose of those guidelines *'under the guidelines the responsibility for ensuring that an assessment is carried out rests with 'Chief Officers'. Lenny Harper was a 'Chief Officer' for the purposes of those guidelines'*. CO POWER offers his view on who he considered to have ownership of the CIA in his statement *'irrespective of my views regarding the relevance of a CIA, it had clearly been commissioned by the SIO and that was a matter for him'*.

- 4.11.9 In this Inquiry's view, this is an unacceptable position for the Chief Officer to adopt. It effectively amounts to CO POWER conceding that he did not know what a CIA was, refusing to consider whether it was of relevance and passing responsibility to DCO HARPER. In our view he failed to supervise and give guidance to DCO HARPER. CO POWER has absolved himself of responsibility without establishing if his DCO possessed the understanding and skills to address this issue which, it appears to this Inquiry, DCO HARPER did not. Furthermore, CO POWER's statement does no more than present an equivocal argument as to why he was not responsible. A CIA should have been completed in the initial stages of Operation Rectangle, and particularly when it was declared a critical incident in December 2007. This was only done once recommended by the ACPO Homicide Working Group and even then its circulation was restricted to the Operation Rectangle enquiry, so that it was not used in the way it was designed – to properly marshal and bring to bear the collective resources, skills and experience of the Force and trusted partners to resolve Operation Rectangle, a critical incident.
- 4.11.10 CO POWER and DCO HARPER have fallen short of the standards expected of them in the Practice Advice on Critical Incident Management. CO POWER explains, however, *'I did, however continue to monitor a reliable source of community views on a regular basis. This was the crime victim survey work undertaken by the Force research unit. Among other things, victims were asked a few simple questions designed to provide a measure of public*

confidence in the Force. The results were published quarterly, but I would visit the unit on a regular basis. I did this because I had a natural professional interest, and also because the then Chief Minister, Frank WALKER, and the Chief Executive, Bill OGLEY, had told me from time to time that Rectangle was 'damaging the reputation of the Force'. I once asked Frank WALKER how he knew this, and he said that he knew it was true because all of his dinner-party guests and tennis partners said so. I was inclined to believe that the people to whom he referred were not necessarily a cross-section of the community, and thus sought reassurance from a more scientific source. For this reason I repeatedly checked with the research unit to see if there was any statistically significant change in public perceptions which might be attributed to Rectangle. None was found'.

4.11.11 Although this demonstrates CO POWER's professional desire to monitor public views, this Inquiry has established that the 'Research Unit' (official name is the Planning and Research Department) is responsible for, amongst other things, the production of statistical and performance reports, annual reports, policing plans and that its work also includes conducting public satisfaction and crime surveys. It does not assess the public's confidence in the States of Jersey Police. The results may have presented a scientific method of monitoring the reputation of the States of Jersey Police in general terms, but the surveys undertaken did not relate specifically to Operation Rectangle; are not an alternative to, and do not negate the requirement for, a CIA.

- **Conclusion 9**

4.11.12 **Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.**

- **Recommendation 6**

4.11.13 **The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedure are fit for purpose.**

4.12 Issue 4 – Establishing an IAG with clear terms of reference, ensuring appropriate membership of the IAG and adequate support to the IAG.

4.12.1 Given the resistance from CO POWER and DCO HARPER to the creation of a Gold Group as suggested by the ACPO Homicide Working Group in February 2008, it appears a compromise was reached whereby an IAG was established as an alternative. CO POWER and DCO HARPER argued it would perform some of the functions of a Gold Group. In his statement to Operation Haven, and possibly with the benefit of hindsight, CO POWER comments *‘for reasons which I have discussed previously, I had reservations regarding the importation of English policing methodology into a small island force. However, I was resolved that an IAG would be formed and given a chance to succeed. In taking this decision I had a number of considerations in mind. Firstly, it might prove to be worthwhile in itself. Secondly, I had committed myself to working to the advice given by X, and this was X advice. I either had to accept it or think of a good reason why not and I could not think of one. Thirdly, in spite of my ingrained resistance to bureaucracy I was coming to the view that Rectangle was reaching a scale at which some of the management processes used in larger forces may need to be applied. This included a gold group. I saw the formation of an IAG as ‘making a start’ which could be progressively developed into other processes’.*

4.12.2 X of the ACPO Homicide Working Group recalls the discussion held with CO POWER and DCO HARPER concerning this issue *‘there was also a discussion regarding an Independent Advisory Group (IAG) and Mr POWER was present at this time. This*

took place at HDLG and both Mr POWER and Mr HARPER discussed who would be the appropriate persons to sit on the group and X gave some advice on the Terms of Reference for such groups. IAGs are a particular area of expertise of X Recommendation 17 of our report refers. I am aware that X was in fact present at the first IAG and both X and I were there for the second. I assume that X gave the appropriate advice as to their functions at the first meeting. Because no Community Impact Assessment had been made, as would have been expected as a Critical Incident, Cat A plus, Recommendation 17 of our first report also included the need for the SIO to consider one. This was acted upon fairly swiftly. In respect of the Terms of Reference, X did send me a draft of Gold Group Terms of Reference and an IAG agenda for my consideration. As there was not going to be a Gold Group, we were looking at which issues could be appropriately included in the IAG Terms of Reference. I produce documentation, marked ASH/8 relating to this with my comments, but what X eventually sent to Mr HARPER, I do not know'.

- 4.12.3 The functions and expectations of the IAG recommended by the ACPO Homicide Working Group and, particularly how the IAG might fulfil some of those normally within the remit of the Gold Group, were never made clear to the IAG members. OFFICER X draws attention to this 'in X first visit in February, X raised the formation of a Gold Group directly with both Messrs Power and Harper which was declined (X). X first written report containing 27 recommendations contained no reference or recommendation concerning a Gold Group in line with the guide despite the examination by X team of MGG/5 (X) which contained the decision and counter-decision regarding the declaration of critical incident as well as the specific decision not to invite an external review. Nor was this important issue re-visited in any subsequent review recommendations. However, it seems a compromise was negotiated by X in which

agreement was secured for an Independent Advisory Group to be set up for Op Rectangle that could perform some of the functions. However, these functions are not specified'.

- 4.12.4 Such a compromise, if it was such, concerns us. Neither CO POWER nor DCO HARPER had experience of an IAG and rather than explore what exactly the functions of Gold Groups and IAGs were and how they might be relevant to the enquiry, they simply opted for what appears to be a less than thoughtful accommodation to the ACPO Homicide Working Group 'pressure'. It is accepted that the States of Jersey Police had no experience of IAGs, but the Force had called for, and was being given support from, the ACPO Homicide Working Group. It follows that all prospective members of an IAG in Jersey would be untrained and inexperienced in this field and would require clear guidance from the police to enable them to successfully fulfil their role. Unfortunately, those subsequently appointed as IAG members were given little direction or guidance and were unsure of their role and what part they actually had to play. **IAG MEMBER X**, for example, states '*we did not receive clear direction as to what our role and function was. When we did query this with Lenny HARPER we did not receive any clear advice*'. This Inquiry believes that an untrained and inexperienced IAG expected to fulfil additional, unspecified strategic goals normally associated with a Gold Group is never going to be wholly effective.
- 4.12.5 **IAG MEMBER X** felt the IAG had been 'used' and lacked clarity of function, a feeling repeated by other IAG members '*a lot of information was thrown at us, as genuine people and with hindsight I felt used. There was no clarity as to our function, the information was brief and we were talked at*'.
- 4.12.6 The initial correspondence received by IAG members from CO POWER included terms of reference. However, these were brief and summarised. During the inaugural meeting of the IAG on 13 March 2008, an explanation of the IAGs role was provided by

X Section 2 of the minutes records a précis of the details given to the Group ‘2. *Agreement of the Agenda. An introduction into the purpose and background to the setting up of this Independent Advisory Group was given by **X**, ACPO – The idea of this forum is that the IAG are a group of critical friends and will discuss matters in confidence and with confidence. Integrity needs to be high, an ACPO review was started three weeks ago and 25 of the 27 recommendations were implemented almost immediately.’*

4.12.7 However, despite this, most members of the IAG became increasingly unsure of their role. **IAG MEMBER X** recalls being told **X** role was to act as a ‘critical friend’; ‘*to clarify, all I really knew prior to the arrival of Mr GRADWELL and WARCUP about our role and expectation of us was that we were ‘critical friends’ and that was it’.*

4.12.8 It is clear that CO POWER was not present at the inaugural meeting of the IAG and that for his own stated reasons he was intentionally maintaining a distance allowing DCO HARPER to manage the direction the IAG took. The lack of input and clarity experienced by members of the IAG exacerbated their frustrations and eventually led to a break down in trust. All members were new to IAGs, including DCO HARPER, and teething problems were to be expected. However, there is no indication that attempts were made by DCO HARPER to explore how the function of an IAG worked elsewhere. This could and should have been a valuable learning tool for the Jersey IAG, but was not considered. Evidence of the confusion the IAG members felt regarding their role is also seen in the letters and e-mails sent to CO POWER and DCO HARPER. This Inquiry has considered correspondence dated 21 July 2008 from **IAG MEMBER X** when frustrations concerning definition of and parameters for, the IAG’s role were made clear to DCO HARPER. **IAG MEMBER X** reports ‘*we are all puzzled regarding our role in this investigation. Our understanding from the brief by ACPO is, among other items, to act as the conduit to the community’.*

4.12.9 This Inquiry has considered DCO HARPER's response. It appears that DCO HARPER was distancing himself from the actions of the IAG members with regard to the issue of the 'appeal' made by them. Also, he felt that they were not qualified to comment on media issues and were incorrect in their assessment and reporting back of public opinion – the very role they should have been carrying out.

4.12.10 **X** considered by this Inquiry to be a subject matter expert on the role and management of IAGs. **X** suggests that efforts could have been made to establish contacts with IAG members elsewhere, especially in view of the potential severity of impact on the community; a matter **X** suggests could have been identified by the ACPO Homicide Working Group. **X** also comments on members' understanding of their role in the IAG *'there was no clear understanding of what relevance the IAG could, or should have to Operation Rectangle, and in consequence no clear understanding of the members own roles'*.

4.12.11 The members of the IAG were committed and passionate in their attempts to fulfil their role. In an attempt to generate some understanding of her mission, **IAG MEMBER X** conducted **X** own research via the internet, *'my main recollection of this meeting was Mr HARPER giving details of Operation Rectangle rather than a specific brief on the purpose of an IAG. However, **X**, I think from the Homicide Working Group was present at the meeting and **X** gave some information on **X** experience of working with IAG's. (However, as a consequence of not having absolute clarity of how the group should act, I later went onto the internet to research information as to the role of an IAG)'.*

- **Appropriate membership of the IAG**

4.12.12 The IAG was chaired by DCO HARPER. The practice of the SIO sitting as Chair of the IAG does not conform to the ACPO/NPIA standards against which Operation Rectangle is compared. **OFFICER X** expands on this *'the meetings were chaired by*

DCO Harper and this continued until his retirement. I have never encountered a case where it is practice, or indeed advisable, for a SIO to chair an IAG'.

- 4.12.13 **OFFICER X** concurs with this view *'it is essential to bring in partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation. It is my view that on balance, with careful negotiation most of the problems envisaged by the SIO should have been capable of being overcome. Some efforts were made to form an IAG after advice from the Homicide Working Group and this proved to be an ineffective group without clear terms of reference and defined roles. It is my view that this group would not normally be chaired by the SIO'.*
- 4.12.14 **OFFICER X** suggests that the SIO should be involved in briefing the IAG, but not chair it *'nonetheless, there remains an important function for a SIO in briefing the IAG. This would often be in the form of a briefing note or 'current situation report', as it is known, that would make clear which information was already in the public domain or suitable for disclosure to the community and which was for inclusion and discussion confidentially with the group and where their advice was sought. An explanation would be provided of the reason for non-disclosure of (usually sensitive) information known to the investigation'.*
- 4.12.15 It is the view of **X** that the composition of an IAG should to some extent reflect the community affected by the investigation. **X** also felt that the questions raised by IAG members in the meeting of 26 March 2008 when they asked about the operation of similar groups in the UK, should have led to some internal discussion between the Chief Officer and SIO. *'Members asked how similar groups work in the UK. X explained their use and structure in UK. In the UK people are drawn from a list to be part of the group for a particular investigation'.*

4.12.16 The individuals identified to form the Group were not necessarily independent. In **OFFICER X** opinion *‘the selection of individuals ‘who could be trusted’ is hardly independent*

TEXT REDACTED

It is **X** considered opinion that *‘the selection of members runs the risk of being labelled an ‘old boy’s network’. These individuals cannot be seen as part of any minority group – much the opposite. Their ability to be seen as being able to represent the views of, or understand the impact of Operation Rectangle upon with [sic] those care home residents and their families has to be questioned’.*

4.12.17 **X** also considered the appointment of **IAG MEMBER X** to be inappropriate given **X** previous employment with the States of Jersey Police

TEXT REDACTED

It appears that the very issue CO POWER and DCO HAPER were concerned about – lack of independence – is something they themselves can now be criticised for.

4.12.18

TEXT REDACTED

This Inquiry is pleased to note that **IAG MEMBER X** appreciated the potential conflict of interest and we feel that **X** was not well served by the initial and continuing lack of direction and support given to the IAG members. We do not seek to criticise **X** in these circumstances.

4.12.19 DCO HARPER makes it clear to **OFFICER X** that he was anxious not to use a multi-agency approach because of his concerns about corruption. However,

OFFICER X is of the view that *'the initial decision to conduct this enquiry as a single-agency led investigation, e.g., police only is in sharp contrast to the accepted guidance outlined in 'Working Together to Safeguard Children' Ministerial Guidance supported by ACPO. A multi-agency approach is considered the most effective and appropriate method of dealing with such allegations. Having spoken with both DCO HARPER and CO POWER they both held very similar views that due to alleged corruption in certain Island authorities a lack of trust by the victims and that at least one suspect working at a senior position in one of the Islands authorities, they decided to go ahead with a single-agency investigation'*.

4.12.20 Despite DCO HARPER's concerns, no consideration was given to applying either risk assessment or formal vetting processes to the selection procedure for members of the IAG.

4.12.21 **X** explains the relevance of this in **X** report *'I would have expected the Chief Officer to have an understanding of the risks inherent in divulging confidential information to an IAG, and to have ensured that a Risk assessment took place to cover this, and that a policy was drawn up by which the operation of the IAG from the SOJP perspective could be controlled. Neither the Chief nor his Deputy seems to have considered this. Given that by this time there had been an allegation that the enquiry was being 'blocked' by unknown persons in high places this Risk assessment was surely essential.'*

- **Adequate support to the IAG**

4.12.22 We are satisfied that CO POWER initiated the establishment of the IAG, although we conclude the execution was half-hearted, 'tick-box' and ineffectual. However, he was not routinely involved in the

meetings which became a role for DCO HARPER. The IAG was informed this would be the case during the inaugural meeting. The minutes of that meeting simply state, *'The Chief Officer Mr POWER is independent of the investigation'*.

- 4.12.23 A similar quote to this was recorded by **IAG MEMBER X** of the IAG in **X** notes, which stated *'he stated Graham POWER is independent of the investigation. He had received support from Wendy Kinnard. If the minutes are correct, this Inquiry finds this concept of the Chief Officer's 'independence' confusing. He should have been very closely aligned to the investigation through his supervision and support, in equal measure.*
- 4.12.24 Furthermore, the IAG was not offered support or guidance. Such guidance could have been provided by way of documentary advice or by putting members in touch with IAGs elsewhere with whom they could discuss structure, function, experience, etc. **X** argues this could have been suggested by the ACPO Homicide Working Group. *'Despite the IAG creation being a formal recommendation by the HWG, this body appears to have offered no documentation and no contacts with existing IAG members elsewhere. In view of the potential severity of impact on the community, a network or contact with other IAG members elsewhere could have been suggested by HWG. In the absence of any suggestion, the Chief Officer would have been wise to ask if this were possible; there is no evidence that he did ask, nor that anyone else did'*.
- 4.12.25 The IAG members each comment in their statements that they did not feel they had been given adequate support or guidance. Their inexperience and lack of contact with anyone with whom they might legitimately discuss what they were being asked to deal with caused difficulties. There was no 'safety valve' for them to gain some release or perspective on the graphic and harrowing information that had been imparted to them; this affected some members. **IAG MEMEBR X**, for example, states *'I found the information that*

Mr HARPER told the group to be very upsetting and shocking. Whilst I consider any form of child abuse to be terrible, I was incredibly shocked by the details that Mr HARPER gave us when he stated that certain organisations had covered the abuse up, I found this so upsetting and worrying. Due to the emphasis that Mr HARPER had placed on confidentiality I knew I would not be able to discuss any issues raised outside of the IAG, this I found tough as I would have spoken to my X about it but knew that I could not'.

4.12.26 **IAG MEMEBR X** was surprised by the attitude of the ACPO Homicide Working Group and SIO when, during one early IAG meeting, it was apparent that X was both shocked and upset at the content of the information given *'I remember at one meeting Lenny had an ACPO officer with him and I reacted in a horrified way at detailed information we were given and the guy with Lenny said something along the lines of not taking things personally and not being able to afford to get emotional about things'.*

4.12.27 **IAG MEMEBR X** also felt that the IAG did not receive adequate support or guidance from DCO HARPER. X does not level the same accusation at CO POWER, purely because the members had been told he would not be involved in IAG and X did not have the knowledge or experience to question this. *'As an IAG member I do not believe that I received adequate support or guidance from Lenny HARPER. I did not have any expectation of Mr POWER therefore can not say that he failed in this respect.'*

4.12.28 X is critical of how matters had developed and adds weight to the contention that CO POWER and DCO HARPER failed in their duty, *'it is not surprising that the statement is made 'we are all puzzled regarding our role in this investigation' (email IAG MEMEBR X to X dated 21 July 2008, copied to all other IAG members). By this time there had been six full meetings of the IAG; the fact that this situation had been allowed to develop demonstrates to me lack of supervision on the part of the Chief*

Officer who had not attended any of these meetings. It also demonstrates a lack of a duty of care to the IAG members’.

4.12.29 **OFFICER X** opinion is that the IAG did not have proper terms of reference, and that the relationship between them and the States of Jersey Police broke down. **X** is clear it failed to achieve its objectives, either as an IAG, in the pure sense, or in fulfilling some of the functions of a Gold Group, as CO POWER had suggested it would *‘While the intent of the HWG recommendation to form an IAG with respect to Op Rectangle was agreed by CO Power, it was only reluctantly implemented by DCO Harper, did not have proper ToR or accepted working practice to build trust and this seemed to lead to a breakdown in positive relationships. Therefore, while the appointment and engagement of an IAG was, in fact, a ground breaking development in the history of SoJP it did not deliver on the intention of the HWG recommendation. It certainly did not deliver on HWGs suggestion that this group could perform some of the functions of a Gold Group’.*

4.12.30 In summary, and despite the initial guidance of, and discussion with, the ACPO Homicide Working Group, this Inquiry concludes there was a failure to establish a relevant, supported IAG with clear terms of reference to support Operation Rectangle.

- **Conclusion 10**

4.12.31 **CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.**

- **Recommendation 7**

4.12.32 **The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.**

4.13 Issue 5 – Resolving concerns raised by the IAG

4.13.1 CO POWER did not routinely attend the IAG meetings, attending two out of 14 meetings prior to his suspension. He may seek to argue he was not aware of IAG concerns. DCO HARPER stated '*as the DCO, I spoke with Chief Officer POWER every day. I briefed him each day and never held anything back*'. We can be certain CO POWER was aware of the Attorney General's concerns over the 'advert' placed in the local newspaper since CO POWER e-mailed DCO HARPER regarding the issue on 19 June 2008. '*Lenny. The AG rang me for a chat. I think it is fair to say that we both agree with what he said. (It had to happen). He was concerned about the public appeal by the IAG and raised some valid issues about this action in a small community. I thought that a telling point was the fact that it was inviting contact with potential jurors. I said that this had taken us by surprise a bit ourselves and if I recall what you told me correctly then we saw it as well intentioned but ill advised. I said that we did not think that it would happen again and that there should be no further public appeals. He said that he thought that the business of the group was disclosable. I did not agree and gave reassurance about minutes of meetings, etc. I expect that this issue will be discussed at a future meeting anyway, but I expect that you will agree that the fallout should be minuted for the record. Please speak if there is any problem with any of this*'.

4.13.2 **IAG MEMEBR X**, along with all other IAG members, was forwarded the same e-mail. **X** responded to CO POWER, making it quite clear that the IAG was misrepresented and reminding CO POWER of the role the States of Jersey Police played in placing the article in the paper. **X** expressed annoyance at the behaviour the IAG was said to be engaged in, yet the only response **X** received from CO POWER was recognition that managing the Jersey media was difficult; he also thanked the IAG for their time and involvement in what he described as a difficult task. It cannot be said that CO POWER confronted the issue in order to restore the IAG's confidence.

- 4.13.3 CO POWER encountered further difficulties relating to the perception of the IAG by States' members. He explains in his statement, made some months later, how, despite explaining its purpose, they saw it as a threat, conflicting with their role as elected members. *'Having agreed to an IAG I then set about putting it together. I used contacts to produce a list of names and was pleased when all agreed to take part. I took a personal involvement in the early business of the group then deliberately pulled back to allow the relationship between the group and the Rectangle team to develop. Quite early in the life of the IAG I found myself fielding political 'flack' from a variety of sources. No matter how often the purpose of the group was explained it was clear that some States members saw it as a threat. The group was portrayed as some sort of 'watchdog' or oversight Board which, it was argued, usurped the role of elected members. It was not long into the life of the group that the Attorney General became involved. This happened after the group had, with the best of intentions, invited public representations in respect of Rectangle. The Attorney General asked that I meet with him about this'*
- 4.13.4 **IAG MEMEBR X** comments *'after Mr HARPER retired Mr GRADWELL took over and in November 2008 issued us with detailed and in some cases restricted information detailing our terms of reference... What was so different between the meetings with Mr GRADWELL and Mr HARPER was the fact that Mr GRADWELL asked us as a group for feedback which we had not previously been asked for. The IAG is now run completely differently. We have been fully appraised of our role and the expectation whereas previously we did not know what the expectation was of the Group'*
- 4.13.5 In coming to our view, this Inquiry has taken into account the opinion of the Attorney General who was clearly not in favour of the IAG. We are unclear about his experience with respect to IAGs. However, it is a mitigating factor for CO POWER that the Attorney General held such a perspective. In our view, it is the Chief Officer who should be up to date with good policing practice rather than the Attorney

General. It was CO POWER's responsibility to adequately brief the Attorney General on modern policing methods and to provide sufficient guidance to the IAG to ensure its effectiveness.

4.13.6 This Inquiry believes a stable, active and value-adding IAG could and should have been established sooner if clearer direction had been provided by CO POWER, despite the 'reservations' of his Deputy, DCO HARPER.

4.13.7 This Inquiry accepts that the formation of an IAG was questioned by the Attorney General, a prominent figure in the States of Jersey. The Attorney General felt that public consultation by the IAG could contaminate potential jurors and prejudice future proceedings. He, therefore, had reservations *'I was not sure that there was a role for such a group here in Jersey for this specific case alone. Whilst I can see the relevance of having such groups set up in the U.K. to advise for example where there were racial difficulties, I was not sure that there was any potential difficulties in this case which could be perceived by the community and which were unknown to the police'*. This Inquiry notes the views expressed by the Attorney General. CO POWER builds on them in his witness statement (having been provided with a copy of the Attorney General's witness statement as part of disclosure). We suggest that the Attorney General's position offers some mitigation to CO POWER's own failings but does not justify them.

4.13.8 Even though CO POWER implemented the ACPO Homicide Working Group recommendation to form an IAG, in his statement submitted to Operation Haven he now says he sees the logic in the view represented by the Attorney General. CO POWER comments that throughout their working relationship, the Attorney General has been sensitive to the introduction of UK practices into the Island. In this context he offers the explanation that he was aware the introduction of an IAG would run counter to the Attorney General's views and describes what he considers to be a 'catch 22' situation for him *'in*

case it is not obvious I make the point here that in some ways the experience regarding the IAG almost encapsulates one of the principal dilemmas in the command of an island force, and in some respects the command of Rectangle. If we do not follow UK procedures we may be accused of failing to follow 'best practice'. If we do follow U.K. procedures we may be accused of unnecessarily importing foreign practices and undermining local autonomy'.

4.13.9 An e-mail sent from a member of the public, **X**, to the then Home Affairs Minister, Wendy KINNARD, at 22:46 hours on 18 March 2008, partly illustrates the point. *'I was very concerned about the article in the JEP tonight concerning the watchdog group. How can you have an independent watchdog group if it is chosen by the department that is being scrutinized?'*

4.13.10 A situation now existed where the members of the IAG felt unsupported and were unsure of what their actual role was. Additionally, States members felt under threat from what they perceived the role of the IAG to have been. All this could have been avoided with clear, strong leadership at the outset, adequate terms of reference, representative membership, appropriate support mechanisms and real engagement from the Chief Officer. States members' fears would have been allayed if these had been achieved, and if CO POWER had reported accurately on the matter to the Home Affairs Minister. None of this took place. No action to remedy the problems as they arose was taken and the IAG was allowed to drift in a state of confusion, contributing little of true value to Operation Rectangle and feeling forced to follow their own direction through private meetings in the absence of guidance from the most senior officers of the States of Jersey Police.

4.13.11 It is apparent that in addition to the impetus provided by DCO WARCUP, Detective Superintendent Michael GRADWELL helped provide the IAG with direction as to their role and purpose.

IAG MEMEBR X states *'whilst Mr HARPER was involved with the*

IAG I did not feel that we were provided with a clear direction of what our role and purpose was, this changed when Mr GRADWELL provided us with this information (SR/6 and 7). I would say that our police contact point was Mr HARPER or X . Issues of confidentiality were discussed and impressed upon the IAG by Mr HARPER. No examples of best practice on how to run an IAG were provided to us by Mr HARPER. We did not receive any training and were all novices to the IAG. I did not know that an IAG could exist without the Police forming part of it'.

4.13.12 It became apparent that matters had not improved since the IAG's inaugural meeting on 13 March 2008. On 4 August 2008, CO POWER was sent an e-mail by **IAG MEMBER X** on behalf of the IAG expressing anxieties in respect of the continuing effectiveness of the Group, the concerns raised by the Attorney General and the lack of response received from DCO HARPER.

4.13.13 CO POWER's response to **IAG MEMEBR X**, the same day, purports to recognise the difficulties they had encountered and identifies with their concerns '*second thing... thanks for all the effort and support that the group has shown so far. Your message indicates that you think this is a hard and ambiguous assignment about which there are conflicting views, and uncertainties as to the appropriate way forward. You appear to believe that some see value in what you do and others think it would be better if you did not exist. Well done. You have understood the situation correctly. I think we need to 're-launch'. For the avoidance of doubt, my own position is that your team has an important role to play and that we would be weaker without your support. I suggest a meeting with myself, David Warcup and OFFICER X to clear the air and get things back on track. I will action this now. Meanwhile thank you for your continued support'*.

4.13.14 The next IAG took place on 19 August 2008. To his credit, CO POWER attended with DCO WARCUP and according to the minutes, both gave an oversight of the strategic direction of the

enquiry. DCO WARCUP had taken up post on 4 August 2008 and responsibility for the IAG would ultimately transfer to him.

- **Conclusion 11**

4.13.15 **CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.**

4.14 Issue 6 – Establishing Operation Rectangle as a single-agency led investigation.

4.14.1 The subject matter experts consulted by this Inquiry raise concerns that Operation Rectangle was not managed as a multi-agency investigation. For reasons previously outlined, it was a deliberate strategy by the SIO to manage the operation as a single-agency enquiry. **OFFICER X** considered this method of investigation to be in sharp contrast to accepted guidance as outlined in ‘Working Together to Safeguard Children.’ *‘It is not normal practice for an enquiry of this kind to be a single-agency led investigation and whereas I cannot comment on the justification put forward by Mr POWER and Mr HARPER for this decision I can say that it is in sharp contrast to the accepted guidance as outlined in the ‘Working Together to Safeguard Children’ which is a HM Government Document published by the Department of Education and Skills’.*

4.14.2 Both CO POWER and DCO HARPER expressed similar views in their decision-making. Both stated their approach was influenced by their belief that corruption existed in the Island and it was this rationale that led them to pursue a single-agency approach.

OFFICER X makes a very similar observation to that expressed by **OFFICER X** *‘the initial decision to conduct this enquiry as a single-agency led investigation, e.g. police only is in sharp contrast to the accepted guidance outlined in ‘Working Together to Safeguard Children’ Ministerial Guidance supported by ACPO. A multi-agency approach is considered the*

most effective and appropriate method of dealing with such allegations. Having spoken with both DCO HARPER and CO POWER they both held very similar views that due to alleged corruption in certain Island authorities a lack of trust by the victims and that at least one suspect working at a senior position in one of the Islands authorities, they decided to go ahead with a single-agency investigation’.

4.14.3 **OFFICER X** is explicit in **X** view, which is directly contrary to that of CO POWER and DCO HARPER *‘It is essential to bring in partner agencies to critically challenge, advise and bring their own experience and expertise to such an investigation. It is my view that on balance, with careful negotiation most of the problems envisaged by the SIO should have been capable of being overcome’.*

4.14.4 **OFFICER X** is unequivocal on the management of Operation Rectangle as a single-agency investigation *‘because this was a major investigation for States of Jersey Police I would expect that terms of reference would be agreed by the Chief Officer setting the parameters of the investigation. Multi-agency investigations terms of reference would normally be discussed with Prosecutors, Social Services and other relevant agencies to provide the investigation focus and direction. There were no specific, signed terms of reference for Operation Rectangle’.*

4.14.5 **X** expresses concern that Operation Rectangle was not led as a multi-agency investigation *‘given the nature of sexual abuse of children, and the vulnerability of those who have survived such experiences, one might have expected the IAG to challenge the decision by the SOJP to hold a single-agency investigation... There is in the first ever IAG meeting one reference only to the SOJ Family Protection team and a ‘multi-agency approach’ (13th March 08)’.*

4.14.6 In this Inquiry’s view, the limitations of a single-agency investigation were avoidable as other solutions could have been considered.

OFFICER X outlines how **X** felt these could have been developed *'I would have expected an intelligence strategy and inclusion protocol to be developed by the SIO. This is standard practice in the investigation of police misconduct. In dealing with other agencies where police access to intelligence records would be constrained without 'inside' assistance, a simple screening criteria based on employment history could surely have identified at least one senior official in each of Social Services, Education and Health departments that could not have been involved in the allegations under investigation (some 15 years before) and yet could provide necessary access within the agreed protocol and also to work with witness liaison and ABE [Achieving Best Evidence] trained officers on the approach to and support for victim/witnesses'*.

- 4.14.7 DCO HARPER expresses his rationale for adopting a single-agency approach in his Policy Book which, in summary, relates to concerns about corruption. CO POWER contends he did consider the concept of a partnership based approach for Operation Rectangle and did discuss 'partnership working'. However, due to the allegations impacting on potential partner agencies, he felt it would have compromised the investigation. *'In the early rush of activity after Rectangle became public knowledge, allegations of involvement, conspiracy, and cover-up were flowing thick and fast. Prominent individuals were being 'named' and it was impossible to predict where all of the allegations were leading. I was sure that the Force needed to move towards something along the lines of a 'Gold Group' model, but equally sure that this could only be done where the evidential picture had achieved a level of stability which was not present in the early stages'*. Whilst this may have been his early opinion, it is only now mentioned in his statement to Operation Haven – there is no documented audit trail of this being his intention at the time. If there was good reason for not commissioning a multi-agency investigation in December 2007, there are no policy decisions or other records properly documenting this. On balance,

this Inquiry accepts CO POWER's view as honestly held that he felt constrained by fears of corruption. However, as we have been able to demonstrate, a thoughtful and measured approach could have alleviated some or all of those concerns and an officer of CO POWER's experience should have been capable of developing such an approach in a timely way.

4.14.8 After retirement, ex-DCO HARPER prepared a document to be used as an affidavit for use in civil proceedings initiated by Senator Stuart SYVRET and John HEMMING, MP. They were attempting to seek intervention from Justice Secretary, Jack STRAW, into the Jersey child abuse 'situation'. They applied, unsuccessfully, for permission to seek judicial review, arguing that Jack STRAW was under a duty to impose independent judicial control over the Jersey court system. It is this affidavit that best explains the perceived conspiracy and cover-up that DCO HARPER suggests cast a shadow over Operation Rectangle. The matters he raises are:

- Concerns over prosecuting paedophiles exacerbated by the case of a public servant within the States of Jersey who was also a member of the Jersey Sea Cadets.
- Concerns that a police officer (Officer 'X') had passed information on to paedophiles regarding police investigations. A more senior police officer, with connections to the Jersey Sea Cadets, told an investigating officer that she could not interview Officer 'X'.
- Information from one officer that 'Y' had abused children whilst on outings with the cadets. This investigation led the Officer to enquiries at location 'Z'. However, Officer 'X' insisted that he went with the investigating officer to 'Z', where the Officer was not allowed to see the members' register, but had relevant dates read out to him by Officer 'X'. A member of 'Z', however, arranged for the Officer to see the register without Officer 'X' being present and the Officer discovered that a group of police officers, including Officer 'X', attended 'Z' frequently when 'Y' was there

with students. DCO HARPER was informed that the investigating officer was under great pressure to drop the case involving 'Y', as it was harming the reputation of his employer's institution.

- Another officer informed DCO HARPER that he had compiled a report in which he recommended and requested that a Historic Child Abuse Enquiry was commenced in respect of Haut de la Garenne. The report was allegedly given to the senior officer with sea cadet 'connections' and was not progressed.
- Various areas of conflict between the Attorney General and DCO HARPER.

4.14.9 Within his affidavit, DCO HARPER concludes *'with such an absence of controls, such an absence of accountability, the ordinary decent people of Jersey are helpless. Intentionally or not, the system has allowed corruption to flourish to such an extent that those seeking to combat it are the ones open to scorn. In what other society in the British Isles and beyond, are the police criticised for trying to professionalise themselves? No matter what efforts are made, ultimately they run into a brick wall. This will not be rectified until some sort of independent element is inserted'*.

4.14.10 It appears to be DCO HARPER's honestly held belief that he was operating in an environment which he considered to be corrupt and in which he had few allies. This Inquiry accepts that both DCO HARPER and CO POWER suspected corruption and cover up by some in influential positions. However, this Inquiry has seen no properly recorded decision-making processes in Operation Rectangle justifying their rationale for deliberately acting outside best practice guidance, most of which arises from comparable cases of both child abuse and homicide in the UK. However, even if DCO HARPER and CO POWER are correct in their concerns about corruption, it remains the opinion of subject experts that their concerns could have been overcome to ensure that Operation Rectangle was an effective investigation.

4.14.11 It has not been any part of Operation Haven's remit to inquire into any allegations regarding supposed corruption within the States.

- **Conclusion 12**

4.14.12 **CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.**

4.15 Issue 7 – Commissioning a review of Operation Rectangle in line with best practice

4.15.1 Policy Decision 9, written by DCO HARPER on 28 December 2007, states '*Decision: Not to instigate external review of investigation unless it becomes a murder/homicide enquiry. Reason: At this time the enquiry is dealing with 'detected' matters, ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation, I will reconsider*'.

4.15.2 The importance of carrying out an independent review of major crime investigations is well recognised throughout the UK Police Service. The Murder Investigation Manual states '*the objective of any review is to constructively evaluate the conduct of an investigation to ensure:*

- *It conforms to nationally approved standards*
- *It is thorough*
- *It has been conducted with integrity and objectivity*
- *That no investigative opportunities have been overlooked*
- *That good practice is identified*'.

4.15.3 DCO HARPER's Policy Book entry suggests he will review his decision-making should human remains be found. Despite the announcements by the DCO on 23 February 2008, a review did not

happen and a '28 day review' was not commissioned as per Murder Investigation Manual standards (paragraph .4.5). The Deputy SIO, **OFFICER X**, requested this, but it was declined by DCO HARPER. **X** says *'Mr HARPER and I had frequent discussions around our difference of opinion and he was aware that I did not believe he was following correct procedure. A good example of this was when I requested that a review be carried out of the investigation (as recommended by the Murder Investigation Manual, which also deals with all Major Crime Investigations). Mr HARPER decided however 'not to instigate external review of the investigation unless it becomes a murder/homicide enquiry'. This is decision 9 dated 28th December 2008. The Murder Manual states that serious crimes where the gravity of the offence suggests it would be prudent, should be reviewed. I tried to get **OFFICER X** from the Metropolitan Police who is one of the main authors of the ACPO Historic Institutional Child Abuse guidelines to do an independent review of the investigation to make sure we were following correct policy and procedure and were on the right track before we converted the enquiry onto HOLMES'*

- 4.15.4 A further opportunity to commission a review presented itself to DCO HARPER around 28 February 2008. **X** of the ACPO Homicide Working Group states *'in respect of what Lenny HARPER and Mr POWER were expecting of us, particularly in respect of 2c, it is hard for me to now be specific. However, at an early stage, and before we first left for Jersey, we were looking at a range of additional options for Lenny HARPER to consider. For example, on 28 February 2008, I had discussion with ACC **OFFICER X** of Devon and Cornwall who had already offered up **X** Review Team to Operation Rectangle and was still willing to become involved. **X** was also available as long term Strategic Advisor and these options were offered to Lenny HARPER so he should have been aware that we were not actually conducting*

a 'Review'. These were not taken up by Lenny HARPER. He had put an entry in the Policy Book as to why there would be no review back in December 2007'.

- 4.15.5 Whilst X has a clear recollection of this aspect of the enquiry, ex-DCO HARPER's memory is not clear. He cannot recall this offer being made, and indicates in his statement that he would have been sceptical about using Devon & Cornwall Constabulary for this purpose as they were providing support in the Major Incident Room. *'I have been asked what I can recall of Devon and Cornwall Police offering to review Operation Rectangle. I have no recollection of this being offered, had it of been the case I am sure I would have had reservations in using them as they were providing staff to the enquiry, especially in the MIR. There would have been a question as to their independence. Once ACPO became involved, I don't think I would have even considered the thought of Devon and Cornwall doing a review. In summary I can not recall such an offer being made even during the period leading up to 23rd February 2008'*. This Inquiry finds ex-DCO HARPER's position illogical. Devon & Cornwall Review Team's purpose is to review Devon & Cornwall inquiries and, of course, Devon & Cornwall staff were manning the Major Incident Room. There cannot be any sensible objection to X proposal, in our view.
- 4.15.6 Ex-DCO HARPER maintained his belief that the services provided by the ACPO Homicide Working Group were sufficient *'after the discovery of the initial fragments we referred to the Murder Manual more and more. I know that it contains something about reviews and we did consider them but we did not think it was necessary in our particular circumstances. X was there and X felt that X presence there was sufficient as we acted on the ACPO HWG recommendations'*.
- 4.15.7 Nevertheless, at the first meeting X held on the Island with DCO HARPER, X suggests X advised that a Review

team conduct a full review of the investigation. There was no mention of this as a recommendation in the body of the ACPO Homicide Working Group report until Recommendation 68 was made in the very last report they completed in June 2008 *‘in fact both in our reports and verbally, we recommended that a Review team should be called in to conduct a full review of the investigation, which is not what we were doing. We were providing advice and mentoring Lenny HARPER, OFFICER X and OFFICER X. We quality assured the investigation insofar as comparing what had been done in the enquiry, with what would be expected in the UK (with reference to MIM and MIRSAP)’.*

4.15.8 **OFFICER X** is of the firm view that CO POWER could have been more challenging over the position taken on reviews by DCO HARPER. However, **OFFICER X** cites **X** failure to challenge the decision not to review as relevant *‘CO POWER should not be criticised for accepting the offer of support from HWG, but he appears to have placed too much reliance on the ‘expertise’ of the team, particularly where it concerned X, and may not have been as challenging as he could have been with DCO Harper’s position on reviews. X should also have challenged this position, as well as be more creative about an alternative command structure, long before X recommendation 68 tabled in June 2008’.*

4.15.9 Of the terms of reference agreed by the ACPO Homicide Working Group and States of Jersey Police, the term, referred to as ‘2c) To quality assure the investigation’, became ambiguous. **OFFICER X** comments that the ACPO Homicide Working Group members have all made it clear they were not in a position to conduct a review themselves. *‘In the HWG ToR, item 2(c) To quality assure the investigation was agreed between X and CO Power, having been amended from its original term of ‘review’ (X), and all were at pains to point out that a small team of three from HWG were not in a position to conduct a review’.*

- 4.15.10 Despite this, there appears to have been confusion over this issue. The ACPO Homicide Working Group terms of reference did not say it would review Operation Rectangle. However, it appears to this Inquiry that there was ambiguity in which the impression was created that they were providing assurances that the investigation was progressing in a professional and expeditious manner. This is 'quality assurance' and is a short step – for the ill-informed – from believing a review is taking place. Not surprisingly, CO POWER emphasised his adherence to the advice that he believed he was receiving from the ACPO Homicide Working Group.
- 4.15.11 CO POWER's statement suggests he took advice from the ACPO Homicide Working Group over the need for a review and was guided by it. *'During the major stages of Rectangle I was aware that it was customary for comparable enquiries to be subject to a review, although I was less sure what was normal in respect of frequency and timing. For this reason I took advice from the HWG. The advice which I was given appears to be well covered in the statement of X paragraph 71. I recall much of the discussions around this issue, and my recollections broadly accord with what the statement says. We talked about the need for a review and its timing. We both thought that a review report would be useful in setting the agenda for the new management structure I was in the process of implementing. I asked X to make the necessary arrangements, and X said that X would'.*
- 4.15.12 X clearly recalls the same discussion as described by CO POWER, which X indicates took place on 30 June 2008, *'On 30 June 2008, X joined us in Jersey. Graham POWER, Dave WARCUP, X and I held a meeting. We discussed the case to date and spoke generally about homicide/unexplained death, the historical child abuse case and Coroners hearing. There was a full discussion on the options for succession planning. Graham POWER said that he had recently consulted with others and he has decided that Dave WARCUP was*

to have strategic direction and that an SIO was to be seconded from the UK. There was no further discussion on the options as he had made his mind up and was very strong about this. It was agreed that X and I would draft the required specifications and milestones for the SIO selection and pass to Graham POWER. I then suggested that a full review team be called in and we discussed various options. I recommended that the Metropolitan Police should provide the review team and this was agreed. I suggested that the ideal time for the review team to undertake their work would be when Lenny HARPER leaves and before the new SIO starts.'

- 4.15.13 Whilst CO POWER appeared keen to have a review of Operation Rectangle in June 2008, by then damage to the investigation had already been done predicated on false assumptions about the evidence available. This Inquiry believes the review should have taken place in February 2008 when Operation Rectangle was being treated as a homicide investigation. Members of the ACPO Homicide Working Group state they did discuss timing with DCO HARPER during their first visit to Jersey, yet failed to make a 'review' recommendation in the content of their first report.

X refers to discussions X had with DCO HARPER during X first visit to Jersey on 29 February 2008, and states they had a conversation about this very topic, *'We met with Graham POWER and Lenny HARPER at HDLG and toured the site. We discussed with them the forming of a Gold Group. Both Graham POWER and Lenny HARPER said that they did not want a Gold Group. We then tried to convince them of the value of an IAG, Graham POWER said he would be happy with an IAG. Lenny did not really want an IAG but as his Chief wanted one, he agreed. It was discussed with Lenny that OFFICER X of Devon and Cornwall Police had previously offered them a review team to undertake a full review of the investigation. This was discussed with Lenny HARPER and he said that he didn't want a review.'*

- 4.15.14 **OFFICER X** explains how the ACPO Homicide Working Group team, in **X** opinion, missed the prime opportunity to suggest a review would be proper and helpful to the investigation and should have featured in their first report. In our view, **OFFICER X** makes a telling point about the role of the ACPO Homicide Working Group regarding the issue of the review *'in fact, many of their actions and omissions as cited above may well have provided false assurance'*. This Inquiry suggests that the ACPO Homicide Working Group's role was ambiguous and provided false assurances which exacerbated the failings and lack of knowledge and experience of DCO HARPER and CO POWER.
- 4.15.15 It is to the credit of CO POWER that he agreed to the assistance and guidance offered by the ACPO Homicide Working Group team. However, this Inquiry concludes that their recommendations reflected what CO POWER and DCO HARPER actually wanted to see and hear, rather than what was necessary. For example, it is best practice that a Gold Group is formed in the circumstances presented by Operation Rectangle, yet no recommendation is made for one in the content of the ACPO Homicide Working Group reports, despite discussion between them on the matter. Also, the fundamental requirement for a review of the investigation was not made subject of a written recommendation until CO POWER acceded to the suggestion in June 2008. It is no coincidence that the subsequent review by the Metropolitan Police Service began to lay bare the false premise of murder which had been permitted to permeate public opinion in Jersey and beyond.
- 4.15.16 Whilst no impropriety is suggested, the question arises of a possible conflict of interest for the ACPO Homicide Working Group.
- X** intended to apply for the position of DCO upon the retirement of DCO HARPER. **OFFICER X** was aware of the position. *'I have been asked... to explain how I first became involved in Operation Rectangle. To the best of my recollection on or about Saturday 23 February 2008, whilst travelling*

in central Europe on a train I was telephoned by X who explained to me that X had been approached by DCO Lenny HARPER of the States of Jersey Police, asking X whether or not X could provide some advice and support to his investigation. I was aware that X had either applied for or was considering applying for a job with the States of Jersey Police and asked X to clarify that this was known and recognised by States of Jersey. X confirmed that this was appreciated and would not cause any conflict of interest. I therefore said it was a matter for X and X judgement and X said that X would then ask DCO HARPER to formally approach me and ask me to support

X. Later that day DCO HARPER rang me and in a short conversation I confirmed that X was a well qualified officer to undertake the role but that X was not a serving police officer and that an approach to SOCA should be made directly’.

- 4.15.17 It is unfortunate that even the intimation of a ‘conflict of interest’ can be raised and it is expected that the ACPO Homicide Working Group will reflect on, and learn lessons from, its engagement in Operation Rectangle.
- 4.15.18 Whilst we consider the advice of the ACPO Homicide Working Group was at times ambiguous and, therefore, potentially misleading, CO POWER is ultimately responsible for ensuring that a proper review of Operation Rectangle took place. That said it is understandable he should rely on the advice of the ACPO Homicide Working Group and that he should accept their ‘quality assurance’ of the investigation, which he believed was being provided under their term of reference 2c. **OFFICER X** concludes that the absence of a review did not amount to a specific failure of CO POWER. **X** writes, ‘I do not regard this aspect as a failure by CO Power. His lack of experience combined with the relative expertise of the HWG team led him into a false sense of security. Nonetheless, he would benefit from training and advice in this area’.

4.15.19 It is **OFFICER X** view that the opportunity was missed by the ACPO Homicide Working Group to ‘tell it how it should be’ with respect to command and control and Gold Groups, in particular.

4.15.20 Professional guidance makes it absolutely clear that reviews are a necessary component in major enquiries, yet the SIO was allowed to continue without such a review. It is our view that CO POWER placed too much reliance on the ‘expertise’ of the ACPO Homicide Working Group team. Equally, the ACPO Homicide Working Group team failed to provide timely, written guidance in this area to CO POWER.

- **Conclusion 13**

4.15.21 **CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.**

- **Recommendation 8**

4.15.22 **The ACPO Homicide Working Group learns lessons from Operation Rectangle in order to improve its support to senior investigating officers in the future. In particular, it should ensure clarity about what is understood by its quality assurance role, documenting all recommendations it considers appropriate to the needs of the investigation (not necessarily of the SIO or Chief Officer) and preventing circumstances which could give rise to any intimation of a possible conflict of interest for advisors and mentors.**

5. The supervision of media management in Operation Rectangle by Chief Officer POWER

5.1 Introduction

5.1.1 Whether CO Graham POWER'S performance met the ACPO/NPIA standards and guidance for the supervision of the media strategy in respect of Operation Rectangle.

5.1.2 The doctrine considered to be best practice is to be found in the following advice and guidance:

- **ACPO Murder Investigation Manual 2006.**

- Section 3. The Role of Chief Officers in Major Crime Investigations (3.3.6 Media Issues), page 80. Guidance on the role of Chief Officers in relation to media issues.
- Section 17. Managing Communication (17.3 Media Strategy, 17.3.1 Developing a Media Strategy, 17.3.2 Implementing a Media Strategy, 17.3.2.1 Holding Statements, 17.3.2.2 Press Conferences, 17.3.2.3 Press Releases, 17.3.2.4 Press Appeals, 17.3.2.5 Witnesses and the Media), pages 224-229. This document includes a complete section (Section 17) on managing communication, developing and implementing both media and internal communications strategies and the channels to use when working with the media. There is also guidance as to the role of chief officers in relation to media issues (Section 3).

- **ACPO/NPIA Practice Advice on Critical Incident Management 2007.**

- Section 3. Managing Critical Incidents (3.9.2 Community Engagement Media) Pages 35-36. This includes guidance on

the formulation of media strategy, taking into account media interpretation and reporting, consequent impact on an investigation, quality assurance by a gold commander and the need for the chief officer, where necessary, to take the lead for media response. Clear principles for consideration and inclusion in a media strategy are identified and outlined.

- **ACPO/NCPE Practice Advice on Core Investigative Doctrine 2005.**
 - Section 6. Investigative Strategies (6.9.2 Media Strategy) Pages 100-102. Guidance is included, relating to preliminary holding statements, identifying offenders, locating suspects, witness appeals, reassuring or warning the public, press conferences and appeals.

- **ACPO/NCPE Guidance on Major Incident Room Standardised Administrative Procedures (MIRSAP) 2005.**
 - Section 3. Documents (3.11.6 Press Release File, 3.11.7 Press Coverage File) Pages 67-68. This document includes guidance relating to maintaining a file of press releases and a file of articles published in the media, including websites, television and radio coverage.

- **ACPO the Investigation of Historic Institutional Child Abuse 2002.**
 - Appendix G. Media Strategy. Pages 101-102. This document includes guidance relating to a media strategy including achieving the right 'balance' between protecting the integrity of the investigation, and the rights of an individual to a fair trial.

- **Home Office Policing & Reducing Crime Unit 1999.**
 - The Effective use of the Media in Serious Crime Investigations. This comprehensive 54 page document covers the development of media strategies, how best to manage media interest,

appropriate disclosure of information and the need to understand the consequences of this. It also highlights the need for media liaison officers to be part of management teams within serious crime investigations.

- **ACPO Media Advisory Group (MAG) Guidance Notes 2002.**
 - The guidance is periodically updated, generally available to police media liaison officers and provides the basis of good practice from which to work effectively with due consideration to legal and operational constraints. The guidance includes advice which can be applied practically to media liaison relating to criminal investigations and general inquiries.
- **States of Jersey Police, Major Incident Procedure Manual**
 - Section 12. The media and visits by VIP's. This is a local manual which provides advice and guidance in respect of a major incident. As the title suggests, it has not been specifically produced for use in a single-agency, police crime investigation but it does contain principles which are relevant to such an investigation. The relevant section of the manual covers Media Liaison, Media Briefing Points, Media Briefing Centre, Communications and Visits by VIP's.

5.1.3 There are a number of witnesses who have made comment on the media supervision in Operation Rectangle. A brief synopsis of their role and experience is as follows:

5.1.4 The Press Officer for the States of Jersey Police is **X** (**X**) who works from Police Headquarters. Under normal circumstances **X** works alone handling media inquiries from within a small office. **X** states that **X** line manager was DCO HARPER, but **X** also reported directly to CO Graham POWER, in accordance with **X** job description. **X** principal accountabilities include:

- Developing corporate PR strategy and marketing the Force perspective, goals and achievements.
- The production of media plans for events and major operations, thereby ensuring the Force is prepared to deal with all media demands before, during and after any operation.
- Representing the Chief Officer and the Force by giving radio and TV interviews, as requested by senior managers.
- In liaison with the Duty Officer and other Police Officers, respond to the daily incidents that require media input including writing up press releases and researching. Briefing staff.
- Assisting the DCO and Staff Officer with the publication of official information in line with appropriate guidelines.
- Monitor the accuracy and angle adopted by the media.
- Respond rapidly and professionally to unforeseen operational events, taking control of the media interface. This includes working on behalf of 'Gold Command' during a major incident.
- Co-ordinate media releases with political representatives and the Honorary Police.

5.1.5 With respect to the media management of Operation Rectangle, this Inquiry believes comment should be made about the ability of X to perform X role in the face of extraordinary events. In X witness statement X suggests that decisions were made without X knowledge. This section of the report will comment on decisions recorded within the Media Policy Book that X states X was unaware of until August 2008 many months after the decisions were made and recorded. These and other decisions were crucial to media management, and as the Press Officer X should have been aware of and influential in, their making. It appears to this Inquiry that at times X was out of X

depth and X experience found X wanting. X states *'I have been the States of Jersey Police Press Officer since June 2005, so at the time events at HDLG became news I had been in post for two years and eight months. In that time I have never been involved with an investigation of the size and nature that Operation Rectangle turned out to be. Up to 23rd February 2008, the most involved case I had dealt with was a fatal RTC involving a Police Officer on duty and then, various sudden deaths (not murders) and rapes. Mostly routine press matters'*. X was not well served, and thereby not likely to be effective, if key decisions were not communicated to X.

- 5.1.6 Whilst this Inquiry acknowledges X lack of experience, it recognises the responsibility of X supervisor, DCO HARPER to identify this.

X states *'If I was acting outside of good practice I would have expected Mr HARPER to give me or direct me to the appropriate guidance. I did not receive any such guidance'*. It appears to us that the Press Officer's role was one of tactical delivery, as opposed to strategic oversight, of media management. X states *'I would describe my role as a tactical one, not a strategic one'*. This is in direct contrast to the *'Develop, revise and implement a corporate PR Strategy'* as outlined in X principal accountabilities.

- 5.1.7 Whilst X should not be criticised for X lack of experience or the lack of supervision X received, X should have raised X concerns about X lack of experience with DCO HARPER or CO POWER. We have no evidence X did so. In fairness, X was provided with assistance from X, a media officer from Devon & Cornwall Constabulary, but it appears X was kept away from the important decision-making processes and content of the media releases. X states *'In respect of individual press releases, he [DCO HARPER] was strong willed on what he wanted to say and as explained before would often write the media releases himself'*. It now seems obvious that X disagreed with some of these releases (see Supervision Section, Suspects A) but we are not convinced that X sought to challenge DCO HARPER or to

raise matters of concern with CO POWER if X felt DCO HARPER would not listen.

5.1.8 This Inquiry believes that X was unable to manage the strong-willed DCO and did not escalate X concerns, which now X raises in X witness statement. However, criticism can be levelled at X supervisors for not fully engaging with X and ensuring effective communication existed which drew upon X media skills and professional training.

5.1.9 X is a communications consultant. X trained as a newspaper journalist and has worked for the Police Service in Warwickshire between 1992–1994 and as a Press Officer and Director of Communication for Cambridge Constabulary between 1994–2001. As a consultant X works for law enforcement agencies in the UK and abroad and states that X has worked on numerous high profile investigations. X was commissioned by DCO WARCUP to assist in the media management of Operation Rectangle following the retirement of DCO HARPER. X produced a written review in relation to Operation Rectangle for the Chief Executive to the Council of Ministers and which was quite proximate to the events.

5.1.10 X is Head of Corporate Communications with Wiltshire Police. X agreed to act as an expert witness on media management in relation to Operation Rectangle. X has worked for Meridian Broadcasting as the News Editor for the south east and is a journalist of 20 years experience. X has worked for Kent Police on a number of high profile murders and as a consultant on other high profile crime enquiries.

5.1.11 This Section should be read in conjunction with the Media Timeline which highlights key events relating to this Section.

5.2 Strategic control of Operation Rectangle

5.2.1 Arguably, no other element of Operation Rectangle had a greater impact on the States of Jersey Police and the Island than the media attention after 23 February 2008. This Inquiry believe that when the Operation was in a covert phase and, following the appeal for victims on 19 November 2007, the media interest was comparable to other investigations of this nature. There can be little argument, however, that following the ‘find’ of a suspicious item on 23 February 2008, media coverage reached an unprecedented level for the Island of Jersey. The following sections will suggest reasons for the nature of media reporting concluding that had a structured communication strategy and strategic co-ordinating process been established, the media would have been better managed. This Inquiry will conclude that CO POWER’s management of the media, directly or indirectly, was sufficiently sub-optimal to merit performance proceedings being taken against him.

5.2.2 There was no Gold Group or other strategic co-ordinating group in place throughout the time that DCO HARPER was SIO for Operation Rectangle. For a communication strategy to be effective there needs to be appropriate mechanisms to manage and maintain it. The accepted method for doing so is through a strategic co-ordinating group. **X** states ‘*media management and associated communications activity is an intrinsic feature of any police-led strategic coordinating group*’.

5.2.3 The decision not to form a Gold Group or any other strategic oversight function is commented on within the Critical Incident section of this Report, and to avoid repetition, the reasons for CO POWER’s approach will not be discussed here. However, the management of the media sits so firmly within a strategic framework that the benefits should be commented on.

5.2.4 **X** states in **X** review that ‘*without a strategic framework guiding communications activity, major criminal investigations can*

easily become bedevilled and sometimes side tracked by sensationalist, inaccurate, distorted and unbalanced media reporting, all of which can have a negative impact upon victims and the confidence vested in the enquiry team by the general public’.

- 5.2.5 As this Section of the Report will describe, this Inquiry believes that a Gold Group would have been able to co-ordinate police and stakeholder activity in terms of media management, and avoid some of the problems that unfolded involving the relationships with the Office of the Attorney General, the Island’s politicians and the Independent Advisory Group. In particular, problems arising from the criticism of the prosecution lawyers by DCO HARPER following their decision not to prosecute suspects ‘A’ (see Section 3, paragraph 5.7) and the Attorney General’s concerns regarding the effect of media reporting upon the fairness of the proceedings against a number of defendants. Also, the specific concerns of senior politicians about the portrayal of events by the States of Jersey Police, which the Force failed to address and concerns about the balance of reporting damaging the reputation of the Island. The Independent Advisory Group, Jerseys first, was left without focus and direction in its mission to provide representative views and advice to the Force.
- 5.2.6 The States of Jersey Police Major Incident Procedure Manual refers specifically to the formation of a strategic co-ordination group (Gold Group) and the necessary requirements for media handling. It states (Section 1 paragraph 5.2.7) *‘the strategic co-ordinating group should be aware of its wider role which may encompass central government interests, handling requests for advice from individual services and agencies and media demands. The group should ensure a strategy for dealing with the media is in operation, designate a media briefing centre and appoint a media briefing centre manager’.* X believes the Manual contains *‘good practice and incorporates guidance by the Home Office from a circular in 1989’.*
- 5.2.7 Bill OGLEBY, Chief Executive to the Council of Ministers, comments on the protocols the States of Jersey Police implemented when

Operation Rectangle became a homicide investigation *'the government could not avoid becoming involved in attempting to manage the situation due to the enormity of the impact. In fact on Tuesday 26 February 2008, I set up and held the first meeting of an Emergency Coordination Centre (Crisis Management Group) to assist in decisions on how best we could respond to the adverse reaction to the situation. In effect, this was a civilian Gold Group but did not include agencies involved in actual investigation and prosecution e.g. Mr POWER or police representation and lawyers'*. On 27 February 2008, Bill OGLEBY e-mailed CO POWER to explain that he had instituted crisis management arrangements and outlined details of his crisis management team. CO POWER responded saying he saw it *'as standard good practice'*.

5.2.8 In his witness statement to this Inquiry, CO POWER makes little reference to the strategic management of the media. Although he comments *'I also needed to be well informed in order that I could discharge my own media role of supporting the enquiry, and to continue to provide strategic level information to the media and government'*, no formal co-ordinating body is referred to. CO POWER comments on the existence and formulation of a Gold Group following the appointment of DCO WARCUP, but there is no explanation in his statement as to what framework was managing or co-ordinating any communication or media strategy before DCO WARCUP's appointment. This Inquiry has found no evidence that such a co-ordinating framework existed.

5.2.9 X summarises that *'given the conversation between Mr POWER, Mr HARPER and X about the formation of a Gold Group and the fact that Mr HARPER has an understanding of Gold Groups and their purpose it is reasonable to assume that Mr POWER was aware of their function of which, as I have said, an intrinsic component is media management and dealing with communications issues'*.

- 5.2.10 X, the X to the Chief Ministers' Department, compares the position before and after the implementation of the Gold Group. X states *'the difference between the management of the incident in February 2008 and now since the Gold Group has been established is incredible. We have an understanding through the Gold Group of what is likely to take place, we are able to give our point of view and assist the police giving advice where possible and this enables good co-ordination and management of the media and investigation as a whole'*.
- 5.2.11 This Inquiry concludes that CO POWER was responsible for ensuring a strategic co-ordinating body was created for the Operation Rectangle investigation. We can find no evidence that he did so. We conclude he did not consider the implications of failing to form any strategic oversight body in relation to media management. The Critical Incident Section in this Report, details the findings of this Inquiry in relation to the formation of a Gold Group. However, by the time the newly appointed DCO WARCUP recognised the need for and created a Gold Group, it was far too late, and damage, in terms of media speculation, had already been done. There were key moments within Operation Rectangle when strategic oversight of the media policy should have been considered by CO POWER. The declaration of Operation Rectangle as a critical incident, the 'find' on 23 February 2008 and the sensationalist national media reporting following that date, criticism by politicians of the reporting and concerns expressed by the IAG, should all have been recognised as obvious indications of risk by CO POWER.
- 5.2.12 This Inquiry would have expected a Chief Officer of Police to have anticipated the need for co-ordination. Certainly, a Chief Officer should have responded through a strategic forum, one which brought all stakeholders to the co-ordination 'table'.

- **Conclusion 14**

5.2.13 **CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police's media strategy in respect of Operation Rectangle.**

5.3 Media strategy

5.3.1 Established good practice suggests that both the Historic Child Abuse Enquiry and the post 23 February 2008 homicide enquiry required formulation of considered and well-constructed media strategies that would have facilitated interaction with the media, maintained confidence in the police within the community, ensured confidence within the investigation team and maximised the opportunities for witness and victim identification.

5.3.2 Operation Rectangle commenced as a covert enquiry in September 2007 before becoming an 'open' enquiry in November 2007. There was a distinct absence of a cogent media strategy prior to the events in February 2008. The covert nature of the enquiry at the outset may not have justified the creation of an extensive and comprehensive media strategy, however, that position should have been reviewed in anticipation of the enquiry coming into the public realm. The Media Strategy Policy Book, dated October 2007, Decision 1, states *'a media strategy has been prepared'*. This is contrary to the understanding of the States of Jersey Police Press Officer, **X**, who comments in **X** statement that *'there had been no media strategy prior to the 23rd February 2008, but up to then, the enquiry was just a local story'*.

5.3.3 When interviewed, ex-DCO HARPER told **OFFICER X** and **OFFICER X** of the Specialist Crime Review Group, Metropolitan Police Service, that a short document was in existence. Operation Haven has found no evidence of a strategy prior to 23 February 2008 and **X**, who has examined the media related material as an expert witness, has 'seen

no evidence that a media strategy document was physically produced until after the police announcement to journalists on 23rd February 2008 during the forensic search at Haut de la Garenne’.

5.3.4 Following the recording of this first decision, there are only six further policy decisions prior to February 2008. All of these are reproduced in Appendix 3 of this Report. Of significance is Decision 3 (dated 19 November 2007) ‘*appoint Press Officer X to co-ordinate media for Jersey Police and liaise with appointed media officer’*. X states X was unaware of any policy book entries regarding media and had not been asked to produce a media strategy. According to X evidence, it was not until 8 August 2008 that X saw media policy decisions for the first time when it was an attachment to an e-mail from **OFFICER X** to DCO WARCUP.

5.3.5 Media Policy Decision 4 (also dated 19 November 2007), written by **OFFICER X**, required ‘*Press Officer to maintain a press cuttings file with copies of all releases given to the media and keep recordings of all press interviews/conferences given’*. The reason cited for this decision was ‘*for disclosure purposes’*.

X will state that at no time was this brought to X attention, and that X commenced this action of X own volition following the ‘find’ on 23 February 2008. This evidence if correct, suggests the author, **OFFICER X**, was not properly disseminating it.

5.3.6 Although a Policy Book was in existence in relation to media issues, the entries are brief and not a proper substitute for a Media Strategy.

X comments that following the decision to release to the public that an investigation was underway, X ‘*would also have expected that the DCO would have charged the Press Officer to prepare a detailed communications strategy, not just to manage media interest, but to provide a strategic framework governing all communications activity about the investigation’*. This Inquiry

suggests that DCO HARPER and CO POWER, from their separate perspectives as SIO and SIO supervisor, should each have ensured that a comprehensive media strategy was in place. Had **X** developed one, it should have been checked and supervised for its appropriateness by the SIO. Thereafter, for adequate 'breadth' by CO POWER to ensure it would accommodate the range of issues and stakeholders interest in Operation Rectangle. If **X** effort had fallen short, it was the responsibility of the SIO and the Chief Officer to resolve any inadequacies. Ultimately, responsibility for the effectiveness of the media strategy rests with CO POWER.

- 5.3.7 This strategy would have identified the need to protect the witnesses and victims from media intrusion, a problem that was to occur on a regular basis as the press sought to obtain 'exclusives' from previous residents of Haut de la Garenne. This aspect did not go unnoticed by CO POWER who states '*in my assessment, the main causes of much of the interest were the number of people giving detailed accounts of abuse to the media*'. The strategy should have sought to protect the investigation from prejudicial reporting. The strategy should have identified the need to minimise any media coverage that could prejudice legal proceedings, an issue that was to plague Operation Rectangle in the months to come. It should have considered the needs of key external stakeholders in order to reduce the potential for discord. The evidence of the witnesses **X** and **X**, outline what a media strategy should seek to achieve.
- 5.3.8 Within any media strategy, this Inquiry would expect to see a range of tactics to achieve core aims, including the communication of key messages. The strategy should identify personnel within the States of Jersey Police who would assume responsibility for implementation, reviewing and revising the document. **X** states '*the development by Police Forces of such communications strategies in the context of major and critical incidents is, in my experience, standard practice*'.

- 5.3.9 Ex-DCO HARPER claims that he briefed CO POWER almost daily, and this is supported by the evidence of others who witnessed their daily interaction. **X** of the ACPO Homicide Working Group states *'I had noted that Lenny HARPER was briefing Graham POWER, at least on a daily basis, with regard to the investigation and direction'*. **OFFICER X** comments *'I know that there were meetings between Mr HARPER and Mr POWER in relation to updates regarding Op Rectangle but these were not in my presence and I don't know what was discussed'*. Other witnesses to the daily interaction include **OFFICER X** and **X**. Therefore, the opportunity existed for CO POWER to make enquiries into the media strategy from the outset and, certainly, when the operation was made known to the public in November 2007. Of interest is the advice provided to Chief Executive Bill OGLEY and Chief Minister Frank WALKER by CO POWER prior to the public announcement in November 2007 *'I also advised Bill OGLEY and Frank WALKER that should a major abuse enquiry be launched there would be significant media management demands upon the island's government, and they should consider making appropriate preparations'*.
- 5.3.10 The inevitable conclusion to be drawn is that CO POWER did not follow his own advice and that he failed to ensure that Operation Rectangle was provided with a strategic framework to guide it, or that a well constructed and documented media strategy was in place and followed through. In the opinion of this Inquiry (and supported by the primary witnesses, in particular **X** and **X**), the media strategy needed to be broader than, but inclusive of, the criminal investigation, i.e., a wider responsibility than the SIO's. There was a need for co-ordination by CO POWER and which we find little tangible evidence of.
- 5.3.11 On 13 December 2007, Operation Rectangle was declared a Critical Incident and classed as Category A+. This was recorded within the Major Crime Policy Book, Decision 6 and can be seen at Appendix 3.

If there was an absence of a media strategy prior to this date, this declaration should have prompted recognition of the need for one at this point, in line with the advice contained in ACPO/NPIA Practice Advice on Critical Incident Management 2007 and, frankly, as a matter of obvious common sense. The designation of Operation Rectangle as a Critical Incident at that juncture should have been made known to CO POWER, either in a verbal update from DCO HARPER or through CO POWER having a structured approach to providing strategic supervision to the enquiry by, amongst other things, checking the policy files. In the opinion of this Inquiry, CO POWER should have understood the necessity for a media strategy immediately and ensured that one was compiled swiftly and with the necessary expert input.

- **Conclusion 15**

5.3.12 **CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.**

5.3.13 Whilst the complete absence of any media strategy was evident prior to 23 February 2008, in the months following, there existed only a poorly constructed document accompanied by a protocol established at the apparent suggestion of Chief Executive Bill OGLE. This is referred to later in this Report.

5.3.14 On 1 March 2008 a media strategy was created by X and X, X assistant from Devon & Cornwall Constabulary. A subsequent version with no changes can be seen to set out the following aim *‘Through effective use of the media reassure the community that the investigation will be thorough and professional thereby encouraging public response to appeals and creating confidence in the States of Jersey Police’.*

5.3.15 The document contained 11 objectives as follows:

- *Keeping the investigation in the public eye*
- *Minimising journalistic speculation*
- *Reassuring the community*
- *To manage press interest effectively so as to minimise potential misinformation and interference with scenes, witnesses, victims' relatives and suspects*
- *To provide the public with accurate information about the offence and the police response*
- *To minimise unnecessary community concern over the fear of crime*
- *To demonstrate the professionalism of the States of Jersey Police*
- *Providing information to the public and assist their ability to help in the investigation*
- *Potentially inducing offender response (intense media activity may influence offender's behaviour)*
- *To use the media in the best way possible to acquire information required by the Investigation or meet other investigative objectives*
- *To give due concern to the portrayal of victims, the feelings of victims' relatives*

5.3.16 These are appropriate and adequate aims and this Inquiry does not criticise them. The issue is that they were either not followed through or were followed through to excess. The narrative below comments on each objective;

- *'Keeping the investigation in the public eye'*. This is an example of where the DCO took the objective to extreme lengths. The diet of salacious and uncorrected reports (see Media Coverage later in this section) certainly maintained the high profile of the enquiry, but ultimately proved damaging to the integrity of the criminal investigation.
- *'Minimising journalistic speculation'*. This Inquiry concludes that loose, premature, unsubstantiated and incorrect reportage maximised speculation and created an uncontrolled reporting frenzy.
- *'Reassuring the community'*. The findings in this regard from Echo Research, commissioned by this Inquiry, suggest that the reputation of the Island was damaged as a result of Operation Rectangle rather than enhanced. No witness to this Inquiry, including CO POWER and DCO HARPER, suggest that Operation Rectangle has enhanced the professional reputation of the States of Jersey Police. However, Echo Research concludes that in respect of media reporting during the period of the investigation of Operation Rectangle (September 2007 to November 2008) *'the reputation of the Jersey Police Force was primarily defined by competence/professionalism and transparency/accessibility, and strongly associated with DCO Lenny HARPER. The reputation of Jersey was overwhelmingly negative dominated by a lack of competence/professionalism and a culture of concealment/cover up'*.

5.3.17 We do not find it surprising that these conclusions were reached. Whilst the media spokesperson for the States of Jersey Police (DCO HARPER) denigrated the activities of the States of Jersey authorities, he continued to announce to the public the efforts the States of Jersey Police were making in order to reveal the truth, *'they [victims] were concerned that it had all been a cover up. I had to convince every one that our investigation would be open and*

transparent and not affected by those such as the Government and lawyers’.

- *‘To manage press interest effectively so as to minimise potential misinformation and interference with scenes, witnesses, victims, relatives and suspects’.* We comment elsewhere in this Section on the effect of uncontrolled reporting on the confidence of the Island’s Attorney General and the ‘abuse of process’ hearings that had to be contested. Whilst this Inquiry does not have direct evidence of the effect upon victims, defendants and witnesses in these cases, common sense suggests that the speculation and uncertainty cannot have helped some of them to feel wholly confident in the criminal justice system.
- *‘To provide the public with accurate information about the offence and the police response’.* As we describe, un-refuted references to the ‘*partial remains of a child*’, ‘*shackles*’, ‘*blood in a bath*’ and ‘*cellars*’, each transpired to be wholly inaccurate and painted an horrific portrayal of crimes which never happened.
- *‘To minimise unnecessary community concern over the fear of crime’.* This Inquiry has no independent analysis available as to whether or not this objective was achieved. We think it reasonable to infer, however, that the high incidence of crime-related headlines associated with Operation Rectangle, a proportion of which were wholly inaccurate, were not likely to have minimised community concern over the fear of crime.
- *‘To demonstrate the professionalism of the States of Jersey police service’.* The early uncontrolled media releases have led to criticism of the States of Jersey Police from the media, politicians and experts. The suspension of CO POWER and the existence of this Inquiry are testament to the concern that has arisen. The press conference of 12 November 2008 convened by the States of Jersey Police criticised the accuracy of earlier media releases. The fact that such a conference had to occur

undoubtedly questions the professionalism of the States of Jersey Police, albeit CO POWER felt that the conference itself was unnecessary.

- *'Providing information to the public and assist their ability to help in the investigation'*. There was a continuous flow of information delivered to the public, though this Inquiry would contend that the majority of it was a misrepresentation of the facts. Again, we consider DCO HARPER took this objective to extreme lengths, although the public did respond to and assist the investigation. Subsequently, however, damage had been caused to the integrity and standing of Operation Rectangle due to substantial inaccuracies in reporting and the need for rectification.
- *'Potentially inducing offender response. Intense media activity may influence offender's behaviour'*. Although this can be a course of action within a homicide inquiry that can produce results, all of the convicted offenders within Operation Rectangle were brought to justice as previously named offenders. We cannot ascertain if the media releases from the States of Jersey encouraged any response from other suspects. This Inquiry has found no evidence that this objective was actually considered in the production of the media releases produced.
- *'To use the media in the best way possible to acquire information required by the Investigation or meet other investigative objectives'*. Whilst there are a number of requests for information made by the States of Jersey Police, these are limited. One such example was made on 16 April 2008 which stated *'the enquiry team would ask that anyone, resident or staff member, who has any information whatsoever on these two pits contacts us as soon as possible'*. However, it is regrettable that these valuable appeals are overshadowed by the sensationalist content of the rest of the release.

- *'To give due concern to the portrayal of victims, the feelings of victims' relatives'*. This Inquiry has no evidence upon which to assess the success of this objective.

5.3.18 X comments *'Other concerns around the media strategy include not identifying as an objective keeping States of Jersey Police staff informed of the progress of the investigation – yet it is listed as a tactic'*. X continues *'also listed as a tactic, but not reflected in the objectives, was the need to give notice to 'Government Communications and other agencies involved. An objective should have included working with key stakeholders to ensure accurate and verified information would be released in a coordinated and timely way'*. This Inquiry does not consider these are significant criticisms.

5.3.19 Following the objectives is a list of tactics that would help to achieve the aims. These are reproduced in full to provide context:

- *'The SIO DCO Lenny HARPER is the nominated media spokesperson.*
- *To counteract continuous requests for interviews from the media – all going over previously reported aspects of the enquiry – consideration will be given to providing the SIO with an exit strategy to rebut such requests until such time that new information is to be released or new appeals made.*
- *Additional press officers have been brought in to assist during the early stages and will be available to return if required later in the investigation.*
- *All information released will be under the approval of the SIO and consideration will be given to any protocol relating to release of material agreed by ACPO/CPS/media.*
- *A copy of each press release or media briefing note will be forwarded to the MIR for their information each time new facts are released. Briefing note sheets are passed to the media via*

e-mail after each press conference. Daily e-mails with 'nothing to report' messages will continue to minimise unnecessary calls to the press office.

- *Use of the local media to keep them 'on board' – they will be reporting this matter locally long after the national media have left.*
- *Internal communications are extremely important and should be raised at an early juncture to ensure staff are kept informed.*
- *This has been done by informing staff (by way of an All Personnel e-mail) that all media briefings and notes are on a dedicated section on the Force's document library to ensure that they are kept informed about this important inquiry.*
- *Copies of all media briefings/press releases are sent to the States of Jersey Communications Unit based at Cyril Le Marquand House so that 'lines' can be noted. This is done at least at the same time as they are given to the media as per the protocol agreed between the two separate press offices. If anything is particularly newsworthy or sensitive, then the Communications Unit will be given advance warning where at all possible.*
- *Full press conferences may be held or media briefings as appropriate. The media have been assured they [sic] any significant finds will be reported to them — the term 'significant' will be at the discretion of the SIO.*
- *Any significant finds will be reported with stress on the fact they will be subject to further forensic tests.*
- *One to one interviews with SIO and other staff will be considered.*

- *At some stage it may be wise to consider the use of a shadow SIO for media briefings.*
- *Footage or stills from inside the premises may be made available through a pooled resource.*
- *Media facilities may be provided to show search teams etc but the specialist military search teams have expressly asked not to be filmed or photographed. The media were advised of this request and their co-operation sought (see media briefing notes dated 030308).*
- *A pre-sentence briefing will be arranged to provide the media with approved exhibits/photos and talking heads after the trial but before the verdict.*
- *Drip feed appeal and sightings over period of time.*
- *For response' press releases will be prepared when appropriate.*
- *Press releases will be prepared when appropriate and advanced notice should be given to Government Communications and other agencies involved. Internal advanced notice when appropriate.*
- *Ring around media when time is limited. The phone text database will be useful.*
- *Website information for the media and the public – ensure both sites are up to date.*
- *Underworld release – release information aimed at that specific part of the community, or specialist magazine if information may come from those areas such as Yachting World or Football magazines/programmes.*
- *If the media have obtained a photograph or footage of the suspect between arrest and court appearance, they will normally ask the*

police if identification is an issue. The press will habitually agree not to publish at this point at our request. This is a decision that must be referred to the SIO or investigation team.

- *Consider a mail shot with pre paid envelopes to an area where you believe witnesses may be.*
- *Consider postcard appeal – leave the postcards in taxis or public transport.*
- *Ensure the local officers are 'On Board' with the media strategy, as reporters are likely to go to them for local flavour, etc.*
- *Local officers may be encouraged to speak to the media, but need to keep within the investigation strategy.*
- *A senior officer should be present at press conferences to provide community reassurance. If possible, video recordings should be timed and dated. Video on www.youtube.com.*
- *When considering how to maximise publicity identify which part of the media (local, national, TV, radio or press) is likely to be interested in this particular release.*
- *List any inter agency co-operation needed including the prosecuting agency.*
- *The above considerations are deliberately broad as it is necessary to ensure that the widest possible consideration be given prior to public appeals/information sharing being carried out.*

5.3.20 It is underpinned with the comment '*this strategy will be constantly reviewed and may be amended to take account of changing circumstances*'. We particularly draw attention to the point which stresses that any significant find will be subject to further forensic tests.

5.3.21 X again comments on the major weakness of the media strategy outlined *‘the overarching failure of the media strategy was in not anticipating potential risks and outcomes associated with tactical actions – and how these would be addressed. These could include, for example (and this is not an exhaustive list):*

- *The potential consequences of releasing inaccurate and unverified information, innocuously or otherwise.*
- *A change in the direction of the inquiry, or additional investigations arising from it (for example a homicide investigation).*
- *The likely consequences of ineffective liaison with other stakeholders and agencies, which could include increased media speculation, media reports playing one agency or individual against another (as they did) and damaged community perceptions of the authorities to conduct their business professionally.*
- *An assessment of how to effectively deal with disclosure of information so as not to prejudice or potentially cause any damage to any future prosecution/s arising or affect the public’s confidence in the criminal justice process.*
- *Identifying resilience issues surrounding media and communications activity and human resources in what was clearly a critical incident and a likely long term major criminal investigation.*

5.3.22 This Inquiry suggests that these considerations would have provided the necessary guidance to prevent the problems that the States of Jersey Police would ultimately face. This Inquiry emphasises the need for careful consideration and oversight of the media strategy by CO POWER. We conclude that such consideration and oversight were lacking.

5.3.23 The media strategy was written on 1 March 2008 by X and was then updated 13 March 2008. This was a basic document that did not direct, guide or accord with the actions taken by DCO HARPER and, by the 13 March 2008 a number of significant media releases had been made by the States of Jersey Police principally by him. A total of 17 press releases and two conferences had taken place within this period.

5.3.24 X describes the completed media strategy as *'cobbled together rapidly and reactively from a generic document'*. This Inquiry has established that the strategy was adapted from a document used by Devon & Cornwall Constabulary.

5.3.25 The strategy was not updated after 13 March 2008, which demonstrates a failure of the commitment to *'constantly review'* the strategy in order to *'take account of changing circumstances'*.

5.3.26 X refers to the strategy in the following terms *'the absence of a strategic plan, in my judgment, made the management of communications in the context of a high profile major investigation more difficult and created an environment in which media coverage was likely to be unchecked, at times inaccurate and unhelpful to the investigative need. The DCO appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy'*. X comment seems to this Inquiry to be both fair and accurate and, in turn, an indictment of CO POWER for his failure to intervene to retrieve the media debacle.

5.3.27 Within days of the 23 February 2008 'find' at Haut de la Garenne, the States of Jersey Police became subject of criticism for the content and method of the media releases. At 16:40 hours on 26 February 2008, DCO HARPER contacted X of the ACPO Homicide Working Group. X states in X witness statement *'Lenny phoned me and said that politicians had contacted*

the Chief as they thought that Lenny was overstating to and over briefing the media. I advised him that he should have a full media strategy with key points and messages’.

5.3.28 A Communications Protocol was established between the States of Jersey and the States of Jersey Police. This was signed by Chief Executive Bill OGLE Y on 3 March 2008 and by CO POWER on 4 March 2008. Within his statement, Bill OGLE Y includes the following reasons for proposing it:

- An atmosphere of distrust created in the media that sought to imply there was a cover up, which was unable to be challenged through fear of being accused of interference.
- Uncertainty in relation to the role the Home Affairs Minister Wendy KINNARD was taking with reference to challenging the Chief Officer of Police.
- The continued disclosure of information by the police when a difficult question was asked of them, thereby causing further media attention.
- Suggestions made by CO POWER towards Bill OGLE Y that he was attempting to interfere with the investigation.

5.3.29 This Protocol established and outlined some principles for media management and communication between the Force and Government. A summary is provided below and the Protocol in entirety can be viewed within the Evidential Bundle accompanying this Report.

- Each organisation must maintain and protect the integrity of its independent role in this Inquiry, but with respect for the authority and accountability of the other.
- All media dealings will be managed through the relevant communications structures in place within each organisation. The interests of the other will be recognised to avoid any unnecessary conflict.

- Each organisation will notify the other of any proactive work to be undertaken.
- Each organisation will avoid comment about the activities of, or issues about, the other, particularly in the context of criticism or implied conflict.
- The States of Jersey Police will direct the release of all information and the management of media issues relating to the inquiry into Historical Child Abuse in Jersey, and any subsequent major crime investigation launched as a consequence of its findings.
- Press conferences will be co-ordinated.
- The States of Jersey will direct the release of all information, and the management of media issues relating to States Government, the responsibilities of its government agencies, allegations of individual/agency failings, and any subsequent issues arising out of ongoing inquiries.
- Where practicable each agency agrees to copy the other into statements/notifications/press releases issued to the media.
- The Chief Executive of States of Jersey, or his nominated deputy(ies), will undertake to liaise with the Chief Constable of the States of Jersey Police, or his nominated deputy(ies), to keep him (her) informed of developments and any key media issues likely to arise.

5.3.30 **X** recalls that *'after the child abuse enquiry went public in November 2007 following the police press release, both Mr POWER and Mr HARPER were called to Mr OGLEY's office because the States seemed to have a problem with the term 'victims' being used. I can only imagine that after HDLG became public knowledge, there was a desire that a protocol was put in place'*.

- 5.3.31 In light of the political criticism that the States of Jersey Police was attracting in those early weeks in March 2008, together with the advice provided by **X** and the presence of the Communication Protocol, CO POWER should have recognised the need for a sophisticated media strategy that would guide the States of Jersey Police through the difficult and intense media attention during this most vulnerable period. Ex-DCO HARPER states *'the media strategy was subject of many discussions between Graham POWER and he knew that we were batting in a hostile environment'*. One can reasonably conclude that the subject of a strategy was raised directly with CO POWER and he, therefore, should have ensured the strategy created on 1 March 2008 was fit for purpose.
- 5.3.32 The Inquiry finds it telling that the issue of the media strategy did not arise again until 25 June 2008 when it did so very pointedly for CO POWER following a media release by DCO HARPER in relation to the charging of two suspects (see Section on Suspects 'A'), caused the Attorney General, William BAILHACHE, to summon CO POWER and Deputy Home Affairs Minister Andrew LEWIS, to his office. The meeting was also attended by **X**, the principal legal advisor to the Attorney General. The purpose of the meeting was to inform both Andrew LEWIS and CO POWER of the unacceptable conduct of DCO HARPER. This meeting will be referred to in detail in a later section. One outcome of this meeting was the request made of CO POWER by the Attorney General, to provide him with a written copy of the police media policy.
- 5.3.33 On 30 June 2008, e-mail correspondence between **OFFICER X** and CO POWER raised the following *'OFFICER X ... I think we do need something on media policy. A copy of the A.C.P.O. media policy and items from H.O.L.M.E.S. might do'*. In all the circumstances of Operation Rectangle and the calling into question of the performance of the SIO (the second most senior officer in the States of Jersey Police), this was, in our view, a very basic and lack lustre response from the Chief Officer. The tone is

indicative of a naive detachment from the media issue coupled with an apparent lack of understanding of the dire implications of the developing media situation. This was another opportunity for the Chief Officer to address and 'grip' the important matter of media strategy and to satisfy the Attorney General that appropriate measures were in place – the evidence is that CO POWER did not do so.

5.3.34 X observes '*I obtained a copy of the police media policy and went through it and compared it to the guidance provided in 'Guidance on Investigating Child Abuse and Safeguarding Children' document produced by ACPO in 2005 and 'the Investigation of Historic [Institutional] Child Abuse document produced in 2002 and the 'Murder Investigation Manual and wrote a report for the Attorney General dated 8th July 2008. I can produce a copy of this report and the relevant sections of the above documents as exhibit JHE6. I had been asked to perform this task by the Attorney General with a view to discussing the media policy with the police. In this document I highlighted the recommendations for a Risk Assessment in relation to the media strategy and the advice to avoid interviews outside the parameters of the agreed press releases. This led me to question whether the principles set out in these documents had been fully embraced and understood by the Operation Rectangle investigation team'. This Inquiry concludes that those principles were never embraced even if properly understood.*

5.3.35 Between 30 June 2008 and 2 July 2008, a copy of the 1 March 2008 Media Strategy was reviewed by Attorney General William BAILHACHE. He raised concerns about its content, including there being no understanding within it of ensuring the need to deliver justice within a small community; the need to maintain confidence in the criminal justice system generally; and the effect of the media policy on the abuse of process arguments.

5.3.36 The Attorney General wrote to CO POWER on 18 July 2008, with the intention of addressing the need to strengthen the working

relationship between them. The letter was a long one, and sought to deal with matters including charging policy, the chain of command, media policy, unused material and about matters pertaining to the Care Leavers Association. He made it plain that, in his view, the existing media policy was in danger of not serving properly the administration of justice and posing serious risk to the criminal process. This was a clear warning to CO POWER of the weakness in the police's management of the media. CO POWER responded in a letter that same day and although he states '*In the meantime please be assured that I take all of your concerns seriously and will be active in seeking solutions which offer an amicable way forward*' the letter suggested that nothing should be done until the retirement of DCO HARPER. '*I suggest that we at least think about the timing of a meeting in the context of imminent key changes to personnel*'.

5.3.37 The criticism attracted by the media strategy throughout the enquiry to this point is in stark contrast to the reception of the subsequent Communications Plan created by DCO WARCUP following the establishment of a Gold Group. X refers to that Communications Plan in the following terms '*[It]...contains a clear statement of objectives, key messages, tactics, audiences and media monitoring and evaluation, as one would expect as a fundamental and key contribution to any investigation of this nature. This document is applied good practice*'.

5.3.38 The manuals of guidance described at the beginning of this section of the Report, which this Inquiry contends are recognised good practice, make regular reference to the need for a media strategy and involvement of key stakeholders. The Practice Advice on Critical Incident Management manual Section 3.9.2 (Page 36) states '*the strategy should also consider the perspectives of others involved in the response to the incident*'. It comments further in Section 3.9.2 that the '*officer in charge is responsible for initial formation of a media strategy*' (Page 35).

- 5.3.39 Whilst it was the responsibility of the DCO HARPER to formulate a media strategy, the standards set out in the Murder Investigation Manual (3.3.6) make it clear that CO POWER was responsible for ascertaining what media strategy was in place and that it was suitable for the purpose for which it was intended.
- 5.3.40 CO POWER was obviously aware of the need for a media strategy. It was a matter of obvious common sense. Furthermore, it was brought to his attention by **X** and was continually referred to by the Attorney General. It is striking, however, that it was only following receipt of the media disclosure material in respect of media issues by this Inquiry to CO POWER on 20 May 2009 that he became aware of the strategy created on 1 March 2008. This Inquiry can find no evidence that he was aware of this strategy beforehand. CO POWER comments in his statement *'I have seen a copy of the media strategy. I see nothing exceptional in its contents, and note that it relates to the investigation of offences of historic sexual abuse. It does not refer to the investigation of any other crimes'*. If it is indeed the case that CO POWER had not seen this strategy before its disclosure to him by Operation Haven, this is surely the strongest possible indictment of his failure to manage the media aspect of Operation Rectangle.
- 5.3.41 CO POWER continues in his statement to list advice from the document *The Effective use of the Media in Serious Crime Investigations*, *'Getting information out allowed the investigation to take the lead in press handling at an early stage, while allowing the rest of the investigation to progress. Furthermore, it was argued that early initial communication with the press limits the degree to which they formulate their own accounts of what happened and begin their own 'investigations'... Finding 'unknown witnesses' was the most frequently stated objective for press appeals... The media can be an important mechanism for generating valuable information from the general public'... providing more detailed information to the general public can increase the likelihood of generating additional valuable information'*.

5.3.42 In light of the advice in this guidance document which was also served on him by way of disclosure by Operation Haven, and the nature of the media coverage of Operation Rectangle, we find it surprising that CO POWER nevertheless concludes that 'this advice appears to be entirely consistent with the approach taken to media management during Rectangle'. (The underlining is CO POWER's emphasis).

5.3.43 In summary, the events of 23 February 2008 and after were exceptional circumstances for the States of Jersey. The crisis required a formal, well constructed media strategy that could be used to guide media releases with the best interest of victims, witnesses and other stakeholders at heart. It needed to provide a clear framework for keeping the public informed, satisfying the reasonable demands of the media whilst maintaining the professionalism of the Force and avoiding any danger of compromise to the enquiry or the broader criminal justice process. It appears to this Inquiry that CO POWER was the only person in a supervisory capacity who could have ensured that DCO HARPER produced a strategy fit for purpose. We conclude that CO POWER failed in his duty; a failure which amounts to neglect, given the serious implications of his failure.

- **Conclusion 16**

5.3.44 **CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008. This strategy should have been regularly reviewed and was not.**

5.4 Media issues relating to 23 February 2008

- **The following sections outline the consequences of the absence of a media strategy for Operation Rectangle.**

5.4.1 Following the discovery of the 'fragment' at Haut de la Garenne at 09:30 hours on Saturday 23 February 2008, DCO HARPER produced Media Policy Decision 8 'to release limited information revealing 'find' of possible human remains'. Please see Appendix 3 of this Report.

- 5.4.2 The written entry in the pocket notebook of CO POWER at 10:45 hours on 23 February 2008 states he received a call from 'LH'. His recollection reported in his statement is that he was told of the 'find' and that it was '*a piece of a child's skull*'. He states that DCO HARPER felt that he had to make an announcement to counter leaks and speculation. Unfortunately, CO POWER does not elaborate in his statement on what was then agreed.
- 5.4.3 CO POWER was aware of the intention to release a press statement, though there is less certainty regarding his knowledge of its content or whether he sanctioned the content at that time. This Inquiry suggests that a discussion should have taken place as to detail given that CO POWER was the supervisor of the SIO. If such a discussion did take place and CO POWER agreed the disclosures subsequently made, then he displayed a disturbing lack of competence. If CO POWER did not approve the disclosure then he should have acted upon DCO HARPER's subsequent bodged and irresponsible disclosure. If no discussion took place about the content of a media release, CO POWER failed to supervise at a key point in the investigation.
- 5.4.4 At 11:01 hours, CO POWER sent an e-mail to Home Affairs Minister Wendy KINNARD, Deputy Home Affairs Minister Andrew LEWIS, Chief Executive Bill OGLE and Chief Minister Frank WALKER, which was approximately 45 minutes prior to DCO HARPER constructing his press release. It was regarding probable future publicity in which CO POWER says '*In consultation with the DCO and in the interests of fair relations with the local media an announcement is likely to be made soon. The announcement will confirm that acting on the basis of information gained during the enquiry the investigation team, assisted by experts from the U.K. have been undertaking a forensic search of the former home at H.D.L.G. This search has revealed what appear to be the human remains of a child. The search is continuing*'. He concludes that this is operationally sensitive until the announcement is made. From this we can conclude that

CO POWER was fully aware of the proposed announcement and, we conclude, had agreed to it.

5.4.5 CO POWER'S pocket notebook, after the 10:45 hours entry, indicates that he visited the scene at a time not specified, and conferred with DCO HARPER although he does not refer to the visit in his statement. At 11:45 hours, DCO HARPER wrote a press release which

OFFICER X copied verbatim into **X** pocket notebook.

5.4.6 **OFFICER X** had been tasked to issue a local and national press release. **X** returned to Police Headquarters and did so. The press release referred to the finding of '*what appears to be potential remains of a child*'. This was circulated to the media at 13:05 hours and at 13:13 hours, a copy was forwarded to CO POWER.

5.4.7 CO POWER comments in his statement that later that day (i.e. 23 February 2008) '*Lenny HARPER issued his media release which refers to the 'potential' remains of a child. We had not as far as I can recall discussed the wording which would be used in the release*'. It is surprising that, for a press release of such obvious magnitude, the Chief Officer did not himself explicitly approve the press release.

5.4.8 Later in the same paragraph CO POWER expresses surprise at the words used by DCO HARPER '*because they were insufficiently precise and capable of wider interpretation*'. In light of these comments, this Inquiry wonders why CO POWER's e-mail sent at 11:01 hours to Messrs WALKER, OGLE, LEWIS and Ms KINNARD also referred to what was found as '*what appear to be the human remains of a child*'.

5.4.9 This Inquiry has established that the Cordon Log (also referred to as the visitor log) records CO POWER arriving at Haut de la Garenne at 12:45 hours on 23 February 2008 and that a meeting occurred with DCO HARPER. Any suggestion that CO POWER was not by then

aware of the content of DCO HARPER's press release, which was circulated whilst he was at Haut de la Garenne, appears unrealistic. Ex-DCO HARPER is unable to assist regarding this issue as he says he has no recollection of telephoning CO POWER or meeting him at Haut de la Garenne. In his witness statement, ex-DCO HARPER expresses his belief that CO POWER was '*off the Island at the time*'. He is plainly wrong in that belief.

5.4.10 During a telephone conversation between **X** and DCO HARPER, **X** outlines in **X** statement that **X** was advised by him that they had found remains of a child at Haut de la Garenne and that a News of the World photographer had been discovered hiding in the grounds. **X** was informed that DCO HARPER had drafted a press release which had been given to **OFFICER X**. Following **X** arrival at Haut de la Garenne between 12:00 and 14:00 hours, **X** was tasked with releasing the same press release to the London media. Having reflected on the wording of the press release, **X** considers that the phrase '*potential remains of a child*' is inappropriate as it was bound to conjure up the thought of some sort of substantial body parts, as opposed to a very small, scientifically untested fragment. Whilst that may be the position on reflection now, this Inquiry has no evidence that **X** sought to challenge the assertion. A subsequent press conference then took place at Haut de la Garenne during the afternoon of 23 February 2008 attended by the local media.

5.4.11 **X**, in **X** review, also comments on the inappropriate terminology pointing out that it evokes certain imagery in the mind – of skeletal bones – and does not correspond with the small item that had been unearthed. **X** comments further on this and also refers to the hastily convened Press Conference which is commented on later.

5.4.12 **OFFICER X** (a trained SIO and member of the Force Senior Management Team) was surprised that details of what had been found and what it was presumed to be, were released

to the world's press at the very first opportunity, when **X** would have expected them to have remained confidential until such time as precise verification of the material was secured, and as subsequently proposed in the 'tactics' accompanying the objectives of the States of Jersey Police media strategy for Operation Rectangle.

5.4.13 **OFFICER X**, who was seconded onto Operation Rectangle from Devon & Cornwall Constabulary, has a wealth of experience within the field of major investigations as a HOLMES manager. **X** view is *'I do not think that there would be one SIO in the Country that would have announced to the media that they had discovered child remains without having it fully checked out first. Certainly not without having prepared the internal infrastructure for the amount of enquiries that would generate'*.

5.4.14 Detective Superintendent Michael GRADWELL who has 30 years experience in the police service, and who has been the SIO on numerous high profile cases concludes *'I feel it highly unlikely any other senior investigating officer or senior officer in the United Kingdom could feel comfortable utilising such a description'*.

5.4.15 **OFFICER X** says of the disclosure of 23 February 2008 *'the media release around the disclosure to the press regarding the 'piece of juvenile skull' raised the awareness of the investigation to a National and International level... It is my view that no disclosure should have taken place at that stage. There was insufficient evidence to confirm the identity of the find and the SIO should have been aware of the consequences of releasing that information to the world's media. What should have happened was that they should have waited confirmation of what the find was before public and media release'*.

5.4.16 **X** is of a similar view stating *'it is hard to escape the conclusion that the prominence, tone, and somewhat alarmist and sensational media coverage, and the ensuing controversy and confusion played out in public about the nature of the find made on*

February 23^d, was the direct result of the language used by the SOJP... In describing it in these ways the Force incited enormous media coverage which at times was somewhat hysterical and sensational and which was, in turn, equally inaccurate and misleading to the public'.

- 5.4.17 These are just some of the views expressed regarding that media release. Others, whose statements are contained within the Evidential Bundle, also reflect on the inappropriate release in terms of content and timing, e.g., Deputy Andrew LEWIS, X, Advocate Stephen BAKER and ACO David WARCUP. It is clear to this Inquiry that to suggest that the find was of a child's remains – without concrete evidence to support the contention – was simply irresponsible and reckless, in the extreme. It was bound to ratchet up the media interest to hysterical levels and thus the disclosure simply should not have been made unless and until certainty had been achieved.
- 5.4.18 At 16:05 hours on 23 February 2008, when DCO HARPER telephoned X of the ACPO Homicide Working Group to request mentoring/advice regarding Operation Rectangle, he is alleged (according to X notes made contemporaneously) to have referred to what had been found as *'half a child's skull'*.
- 5.4.19 Whilst CO POWER may now express surprise at the words used by DCO HARPER in that media release, the e-mail correspondence referred to above, between CO POWER, Chief Executive Bill OGLE, Chief Minister Frank WALKER, Senator Wendy KINNARD and Deputy Andrew LEWIS, suggest he was aware of the tone and possibly the exact content of what DCO HARPER intended to say. In our view, CO POWER should have taken steps carefully to control the handling of the media at this sensitive stage and should, ideally, have prevented any media disclosure; but if he felt that some disclosure was merited then plainly he should have ensured that the language

was temperate and considered. Even if CO POWER is given the benefit of the doubt and it is accepted that he had no knowledge of the content of the release, the question then becomes why he was so unaware. Previous sections have commented on the frequency with which CO POWER and DCO HARPER were said to have met and the regularity of briefings. Ex-DCO HARPER states '*I briefed him each day and never held anything back*'. If this was so, it is hard to see how CO POWER was not made fully aware of what his DCO was about to release, and even harder to understand why the only person in a position to supervise and moderate the DCO's actions did not do so. The 'find' was the single most significant event to occur in the Operation Rectangle investigation. The management and use of this information was crucial to the direction the investigation would take and the public's reception and analysis of the investigation. That much, at least, should have been obvious to an officer of CO POWER's length of service.

- 5.4.20 On 26 February 2008, CO POWER sent an e-mail to Bill OGLE in which he states '*I do not give political advice but I am experienced in media management in a crisis*'. With this self professed experience, it is hard to understand why CO POWER did not discharge his responsibilities by giving strategic direction to the enquiry in general terms and why he did not specifically moderate the tone of the media release.
- 5.4.21 Appendix G of the Investigation of Historic and Institutional Child Abuse provides guidance in the area of media releases. It comments on the need to obtain balance in order to protect the integrity of the investigation and the rights of an individual to a fair trial. The Practice Advice on Critical Incident Management 3.9.2, page 36, specifically relating to media, comments that the type and tone of wording used in media statements must be tactful.
- 5.4.22 Section 3 of the Murder Investigation Manual 2006 headed 'The Role of Chief Officers in Major Crime Investigations', states under Media

Issues at Page 80 '*the chief officer's strategic role is primarily one of quality assurance*'.

- 5.4.23 DCO HARPER's releases to the media on 23 February 2008 appear far removed from his own media policy (Decision 8) '*to release limited information revealing find of possible human remains*'.
- 5.4.24 When compared against the standards referred to above, it is the view of this Inquiry that the performance of CO POWER falls far short of that reasonably to be expected of a Chief Officer, even more so when it is understood that the Chief Officer was the only person with the authority and ability to supervise the SIO. The media frenzy that ensued following this release is commented on in a later section, but CO POWER should easily have recognised the potential impact of such a statement. He should have ensured the release was measured, accurate and conditional upon the results of a forensic laboratory examination. Instead, CO POWER allowed the SIO to proceed unchecked.
- 5.4.25 This Inquiry is fully aware that a Forensic Anthropologist, **X**, was at the scene of the 'find' on 23 February 2008 and gave an opinion that the 'find' was human. Nevertheless, and for reasons now obvious, **X** initial opinion should not have been announced to the world's media at that time. The provenance of Exhibit JAR/6 is dealt with later in this Section of this Report.

5.5 Media coverage after 23 February 2008

- 5.5.1 In our view, if the initial media release of the 23 February 2008 prompted the media to 'descend' upon Jersey, then the subsequent conferences led by DCO HARPER with Haut de la Garenne as the backdrop only encouraged their continued presence and the developing media frenzy.
- 5.5.2 This period was crucial in the overall management of Operation Rectangle. Whilst the initial release confirming the '*potential remains*

of a child' has been subject to much criticism, it was the subsequent speculation in the national media that exacerbated the problem.

- 5.5.3 There is no doubt, in our view, that the States of Jersey Police was misquoted on a number of occasions. CO POWER and ex-DCO HARPER will contend that they did attempt to correct these mistakes. However, the lack of media strategy or strategic oversight from CO POWER made this task much more difficult. The absence of strategy created the environment in which misquotation was more likely. The total number of media releases made by the States of Jersey Police and the coverage of the national and international press is too large to detail within the body of this Report and is included within the appended Evidential Bundle. However, comment will be made here on a number of significant States of Jersey Police releases that are, in our view, representative in tone and content of those which we say merit criticism of CO POWER's handling of this aspect of Operation Rectangle during this period.
- 5.5.4 An early press release following the initial announcement on 23 February 2008, changes wording from '*potential*' to '*partial*' with respect to the '*remains of child*'. A press conference led by DCO HARPER later the same day referred to the '*partial remains*'. This was seized upon by the media from the outset; the BBC News on the evening of 23 February 2008 pictured DCO HARPER explaining '*in addition to the 'partial' remains, we found a number of other items of clothing and bits and pieces, nothing major, but, again, which tends to corroborate the fact that there may be a number of items there*'.
- 5.5.5 This small but very significant change of wording inevitably created the impression amongst listeners that the 'find' of 23 February 2008 was in fact the remains of a child, albeit only partial. 'Potential' at least left the situation open to review and clarification. Later that day, the BBC website reported that '*parts of a child's body have been found by police in a former children's home in Jersey. Police believe more bodies may be found at Haut de la Garenne*'.

- 5.5.6 The progression from 'potential' to 'partial' to 'parts' occurred within hours and this distortion continued over the next few days. The News of the World, Sunday, 24 February 2008, reported '*Police have found a child's skull in a secret dig for a group of lost children feared murdered*'.
- 5.5.7 The Sunday Times referred to '*parts of a child's skeleton*' and the Observer even provided the gender of the skeleton with the quote '*believed to be a girl's remains*'.
- 5.5.8 With the exception of the leap to the assumption they were the remains of a girl, none of the above is an outrageous distortion of the first impression created by the initial announcements of DCO HARPER. However, two days later the States of Jersey Police did attempt to correct the misrepresentation of the facts by stating on their website '*The States of Jersey Police would like to emphasise that all that has been recovered so far from the site are the partial remains of what is believed to have been a child*'. This 'clarification' actually compounds the misrepresentation.
- 5.5.9 Whilst some effort had been made to reduce the speculation and rein in some of the media coverage, the continued reference to 'partial' did nothing to alleviate the exaggeration of the facts. The presumption of dead children was, by now, firmly embedded in the public's mind. The States of Jersey Police failed to make clear that what had ultimately been found was a very small item which had not yet been fully examined or definitely identified.
- 5.5.10 From the outset, CO POWER was asked questions about the releases and what was being reported in the media. An e-mail exchange on 25 February 2008, between Senator Sarah FERGUSON and Senator Wendy KINNARD, outlines the former's concerns. CO POWER responded to Senator KINNARD, describing the differences in the media reporting to that released by the States of Jersey Police: 'Wendy,

TEXT REDACTED

I suggest you keep it simple and general.

There are reports that we believe that there are xxx hidden bodies. What we actually say is that there are a number of locations where scientific readings indicate that there is a need to explore further. That is a different thing (to anyone who is actually listening that is)'.

- 5.5.11 It is not unreasonable to conclude, even at this early stage, that these enquiries from politicians were an indication of the reaction to what had been released and should have prompted action from CO POWER to set the record straight and to ensure that DCO HARPER was being appropriately supervised to eliminate the risk of matters escalating unreasonably. It appears to this Inquiry, that CO POWER's above e-mail was dismissive and complacent in tone.
- 5.5.12 On 25 February 2008, the Home Affairs Minister, Senator Wendy KINNARD and Chief Executive Bill OGLEBY met with CO POWER to discuss media handling of the enquiry and to advise that there was concern about how announcements to the media were being conducted. It seemed clear to them that the informal style and setting for press conferences was creating an opportunity for sensationalism and it was, therefore, suggested that future press conferences should be in a more controlled, formal setting. Most importantly, they wanted to be assured that in future all announcements and responses to questions would be more circumspect to avoid speculation. It was suggested that CO POWER could take the lead, wearing uniform and working from a conference room.
- 5.5.13 At 16:38 hours on that day, CO POWER sent them an e-mail. The tone of the e-mail implies to this Inquiry his support for the way DCO HARPER was handling the press and suggests that it would be most unusual for the Chief of Police to front the media. His reluctance to do so is clearly evident *'if I understand it correctly then there was concern that we were giving away too much, that the tone was wrong and that there could be prejudice to future proceedings. I did respond*

by saying that I had seen some of the coverage and thought that it was first class'. He continued 'it was suggested by you that I might do some of the media work. This would be most unusual in a major crime enquiry. The role of the head of the force would be seen as providing reassurance that the right skills and arrangements are in place. It is customary for the senior investigator to talk about the investigation. I do not have a grasp of all the detail, and have not led an investigation for a number of years'. This e-mail does provide further evidence that CO POWER's grip on Jersey's biggest investigation in living memory was inadequate.

- 5.5.14 Bill OGLE Y states that *'The next day in a telephone call he informed me that he had considered I had attempted to interfere with the investigation and that if asked, he would say so'. Perhaps unsurprisingly, Bill OGLE Y felt that the whole tone of CO POWER's response was aggressive and threatening. It seems that despite these warnings, CO POWER just did not grasp the consequences of the highly emotive use of language contained in the States of Jersey Police media releases or that the misrepresentation by the national media should have been vigorously challenged from the outset. In the view of this Inquiry, we cannot understand why Mr POWER so readily equated politicians' and States' Officers' concerns about media speculation to political interference with the investigation.*
- 5.5.15 A further expression that has become the subject of much speculation appeared on the States of Jersey Police website on 27 February 2008 *'we can confirm that this morning, we have gained partial access to the cellar'.*
- 5.5.16 This phrase was repeated at regular intervals, including a press conference that evening. In the following 24 hours, various references to the cellar were made with a further release on the website on 28 February 2008, in which the cellar was described as *'an underground room with unrendered walls'.*

- 5.5.17 Released in this manner, these descriptions were inevitably going to lead to sinister interpretations. However, when Detective Superintendent Michael GRADWELL and DCO David WARCUP held their media conference on 12 November 2008, they were readily able to set matters straight by pointing out that the *'cellars'* were *'floor voids... they are not dungeons, and they are not cellars'*.
- X has commented in X review that the reference to cellars was inaccurate and allowed the media to create a false impression in the public mindset.
- 5.5.18 When asked to make a statement to Operation Haven, ex-DCO HARPER was asked to comment on the use of such language. He stated that he did end up using that term because victims had been telling them about cellars. He admitted that they were not cellars 'as such', but an area which was no longer used located below what became the ground floor. He stated that he qualified his statements by referring to it as *'the area known as the cellars'* or something similar.
- 5.5.19 On 29 February 2008, DCO HARPER continued the theme with an interview on Sky News in which he stated that they had uncovered *'what some of the witnesses have referred to as a trapdoor'*.
- 5.5.20 The Sun reported on the discovery, referring to it (the trapdoor) as giving access to *'three torture chambers'*. The Daily Mirror reported *'[the trap door] is thought to lead to hidden dungeons where a child's skull and shackles have already been found'*.
- 5.5.21 Again, the media had worked on the emotive terms being issued by the States of Jersey Police and there was a lack of any attempt at correction by the Force. In a States of Jersey Police release of 28 February 2008, it declared *'on the whole, we are delighted with the media coverage we have had so far... however, there have been a few totally erroneous suggestions... the vast amount of coverage has been 'absolutely superb'*. Once more, this is suggestive of complacency as to the media's coverage.

5.5.22 This Inquiry well understands the need to maintain a good police relationship with the media. However, the passive acceptance of such emotive language ran the very obvious risk of causing problems in terms of public expectations and in any future court proceedings. On 4 March 2008, a meeting was arranged between CO POWER and Attorney General William BAILHACHE, which raised a range of issues concerning his [William BAILHACHE's] belief that the media reporting to date would result in abuse of process arguments, on the basis that a fair trial for those charged as a result of Operation Rectangle was impossible. The Attorney General expressed concerns at the terminology used and the possibility of compromise to any corroborative effect of witnesses referring to certain items as being relevant to their case, but the details of which had already been made known to the public via the media. William BAILHACHE believes that it was at this meeting, but it may have been a subsequent occasion, that CO POWER told him that DCO HARPER was due to retire in a matter of months and that there was a limit to the amount of practical control which he, CO POWER, could exercise. There is no evidenced reason to disbelieve the Attorney General about this alleged comment.

5.5.23 We understand there were actually five months remaining before DCO HARPER was due to retire in August 2008. The reaction to the media releases he initiated was significant and damaging, yet CO POWER, seems to suggest there was nothing he could do but wait for DCO HARPER's retirement. This is plainly unacceptable. This Inquiry believes that CO POWER should have done all within his authority to modify DCO HARPER's media approach and to provide strategic direction as to how Operation Rectangle should progress, especially in the media arena.

5.5.24 Instead, media speculation seemed to gather pace unchecked. On 29 February 2008, The Guardian reported that *'shackles were found yesterday in one of the underground chambers'*. On the same day, the Daily Mail announced *'a pair of shackles were found yesterday in*

the 'Colditz' care home'. Whilst The Sun reported 'Cops hunting for bodies in the care homes underground torture chamber yesterday uncovered a pair of shackles'.

5.5.25 This story was repeated throughout the local and national newspapers, having originated from builders who had worked at Haut de la Garenne some years prior to the commencement of Operation Rectangle, and who had found what they termed as 'shackles' when conducting renovation work. This had prompted the States of Jersey Police to further investigate and they had located items amongst some builder's rubble found within the floor voids. Whilst no initial confirmation or denial of the presence of 'shackles' was made by the States of Jersey Police, neither did they seek to address what was being reported. The nature of these items is not clear and the term 'shackles' is one description, but they could also be described as old pieces of wire, probably bed springs. **IAG MEMBER X** comments *'when shown by Mr GRADWELL even a lay person would know that you could not secure anyone with these pieces of wire which had the appearance of old fashioned bed springs'. Without challenge to what was being reported, the public were entitled to believe that 'shackles' had been found.*

5.5.26 Yet on 24 May 2008, a press release by the States of Jersey Police actually confirmed the presence of the shackles *'Mr HARPER never moved to quell suggestions that shackles and a bath had been found in the cellar because quite simply they had been. Furthermore their find corroborated the evidence of a number of victims. The SoJ Police have never confirmed until now that shackles were found. We do now and also for the first time, confirm that a second pair of what appear to be "home made" restraints were also discovered'.*

5.5.27 This 'confirmation' was surprising, given the true state of the items in question and was bound to yet further raise the profile and sensationalist coverage of the investigation. In his statement, ex-DCO HARPER admits that even he was now being driven by the

press and that he confirmed the existence of shackles knowing that to be wrong *'initially I had not confirmed this to the press, but as the months went on and because the press were constantly referring to shackles I also started to use that phrase. Whilst the item could have been something else I took the view that, bearing in mind what the victims had alleged, it was possible it could have been used as such even though they were not shackles per se'*. This is a surprising state of affairs where the SIO accepts and adopts inappropriate language being used by the media.

- 5.5.28 Ex-DCO HARPER states that Forensic Services Manager X showed CO POWER the 'shackles'. If this is correct, it may be assumed that he [CO POWER] either believed somehow they were shackles, or chose to ignore the obvious misrepresentation in the media. When asked by Operation Haven, X cannot recall showing the items to CO POWER. Given that no scientific assessment of the 'shackles' was available and some doubt was plainly entertained by DCO HARPER, this Inquiry would expect any reasonable Chief Officer to resist the use of assumptions and ensure an accurate account is being conveyed to the public. Yet CO POWER appears to have done nothing to correct this false impression as to 'shackles'. Indeed, we can find little evidence that he ever intervened to correct false impressions which were gathering pace in the media.
- 5.5.29 On 7 March 2008, two further matters were released into the public domain by the States of Jersey Police which courted controversy *'the dog indicated to two different spots within the 'bath'. Presumptive tests for 'blood' have given a positive result'*.
- 5.5.30 The Daily Telegraph reported this on 8 March 2008 in the following terms *'Detectives revealed on Friday that specks of blood had been found in a bath that was in the first 'punishment room'*. The News of the World continued the following day with *'On Friday sniffer dogs found spots of blood in a giant concrete bath in the first chamber...*

Some victims say they were kept in underground ‘punishment rooms’ where they were drugged, raped and flogged by staff’.

5.5.31 This Inquiry can find no evidence that any steps were taken to address this media misreporting. In other words, neither DCO HARPER nor CO POWER appear to have taken any steps to control and diminish the emerging picture of torture and possible homicide. This was yet another example of the release of too much information, too early, before it could be confirmed whether Operation Rectangle had actually found ‘*blood*’, or what the significance of the ‘bath’ was and without any consideration of the impact on the enquiry and the public at large. As is now known, it has since been forensically established that there was no blood found within the ‘bath’. During their press conference of 12 November 2008, Detective Superintendent Michael GRADWELL and DCO WARCUP concluded that there is ‘*nothing suspicious about the bath and no indication this bath has been used in the commission of any offences*’. That correction came far too late.

5.5.32 X comments within X review that ‘*having now seen the ‘bath’ in question, had I been the Press Officer on this enquiry I would have encouraged the SIO to consider whether any mention needed to be made publicly about the discovery of the trough, and that if there was an operational reason for him so doing, to have stuck with his description of the item as a ‘trough’ and to have stressed its dimensions, so allowing the public to form a more accurate impression in their minds*’.

5.5.33 Seven weeks after the significant media interviews given by DCO HARPER following the ‘find’ of 23 February 2008, the States of Jersey Police made mention for the first time of the presence of lime pits in a release on 16 April 2008 ‘*at the bottom of the pit was a large quantity of lime. There was nothing else in the hole. The enquiry team can think of no reason why this pit would have been created nor why it was filled with lime*’.

- 5.5.34 One must question the reason for this release which caused inevitable subsequent speculation by the media. The Telegraph Online commented that *'Lime or calcium oxide, has traditionally been used in the burial of bodies in open graves to disintegrate bodies and hide the smell of decomposition'*.
- 5.5.35 It was inevitable that, with the focus well and truly on Haut de la Garenne following previous media releases, providing details of this exploratory dig would result in yet further conjecture. This Inquiry can see no objective basis as to why these details were released to the media and what was hoped would be achieved. Equally, we cannot see where CO POWER's oversight features.
- 5.5.36 There were two further examples of language used by the States of Jersey Police during their media releases following the 23 February 2008 announcement which justify specific comment. Between 21 April and 31 July 2008 the States of Jersey Police made 20 separate press releases relating to the discovery of teeth, and a similar number in relation to the finding of bones.
- 5.5.37 The release on 22 April 2008 stated *'As a result of indications from the dogs working with the enquiry team, forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two 'milk teeth' from a child or children. We cannot be sure at this stage if the bone is human or animal and it will be forwarded to the UK for tests. The teeth could have come from the same child although further tests will be necessary to try and ascertain if that is the case, and how the teeth might have come to be there'*.
- 5.5.38 In light of the previous releases, this could only serve to heighten public concern for what they were in effect and by default being led to believe had happened in Haut de la Garenne. The impression was compounded on 23 April 2008 when The Sun reported *'Detectives also believe the five or six bone fragments may belong to the same child, thought to be aged about five'*.

- 5.5.39 And on the 13 May 2008 *'Cops searching the Jersey horror care home where a child's remains were discovered have unearthed three more milk teeth. Five teeth have now been found in dungeons under Haut de la Garenne, where 160 victims say they were raped and tortured. The teeth are being tested to see if they came from the same child'*.
- 5.5.40 On 21 May 2008 X made notes from the media briefing given by DCO HARPER at Haut de la Garenne on the same day *'as a result of excavating the cellar areas since 17 April and an ongoing sieving operation, around 30 bone fragments have now been found from those areas (cellars 3 and 4). Ten of these bone fragments were found yesterday (in an ashy area of cellar 3) and identified as being human, (Tuesday 20 May) while around 20 were found in the last two weeks. So far from those areas, seven 'children's teeth' have been found, one this morning. Of these teeth, six have been positively identified by one expert as being children's teeth... Regarding the teeth, of the six we have sent to the UK, five of these cannot have come out naturally before death, and only one of the six has signs of decay. The rest have a lot of root attached. We have been told that teeth could come out naturally during the decomposition process'*.
- 5.5.41 During that press conference on 21 May 2008, DCO HARPER displayed a tooth to the attending journalists. X reports in X witness statement that X felt the display was 'gratuitous'. It is not clear what, if any, steps X took to challenge DCO HARPER at the time. X comments in X review *'the decision to display to the media a tooth recovered from Haut de la Garenne was highly unusual. The approach taken by the SoJP to releasing information about the teeth found was unusual, not consistent with normal working practice in the UK and encouraged further media reporting and speculation'*. We accept that this action was agreed beforehand with X of the ACPO Homicide Working Group and, therefore, due account should be taken of this

fact. This Inquiry feels that DCO HARPER was poorly advised, but the additional 'damage' to media management at that stage by the 'display' was minimal.

5.5.42 It was not until the press conference held by Detective Superintendent GRADWELL and DCO WARCUP on 12 November 2008 that the presence of bones and teeth was put in the following all important perspective *'the context in which the teeth were found is not in itself, suspicious'*.

5.5.43 Prior to this conference, ACO WARCUP suggests in his witness statement that he gave CO POWER the opportunity to examine the notes that DCO WARCUP had prepared in which he makes it clear that he intended to state that these discoveries were not considered suspicious. Although addenda were made by CO POWER on the notes about other issues to be covered in the conference, this specific statement attracted no comment from, and was not altered, by CO POWER.

5.5.44 X, who is qualified to pass such opinion based on his previous experience and training makes observations *'the DCO [HARPER] appears to have been singularly responsible for determining what information was divulged to the media, when and by what mechanisms, and how and when to respond to coverage with which he was unhappy. The role played by the SoJP Press Officer was tactical, not strategic; X appears to have been used merely as a conduit and distributor for statements determined by the DCO and was not encouraged to provide strategic advice. From the outset, statements released to the media suggested with the language of certainty that crimes had been committed and that there were many victims. For legal reasons, and in order to manage media coverage and public expectation, more temperate and non-judgemental language would have been more appropriate... Statements made in relation to the item recovered on February 23^d were not accurate and incited enormous media coverage which at times was hysterical and sensational and was, in turn, equally inaccurate and misleading.*

- 5.5.45 *The description as "cellars" of the voids under the flooring was inaccurate and allowed the media to create a false impression in the public mindset. The description of an item recovered from Haut de la Garenne as 'shackles' was not accurate... The language used to describe the "bath" could have been more accurate. The decision to display to the media a tooth recovered from Haut de la Garenne was highly unusual. The approach taken by SOJP to releasing information about the teeth found was unusual, not consistent with normal working practice in the UK and encouraged further media reporting and speculation.*
- 5.5.46 *Given the lack of evidence collated to prove that a child's remains had been found at Haut de la Garenne, the statements made by the SOJP could have been more accurately phrased and could have generated more measured and less prominent media coverage... The statement made by the SoJP regarding the two pits excavated at Haut de la Garenne was inappropriate... The nature and quantity of much of the media coverage was generated and sustained by the police's deliberate decision to provide a regular diet of information to the media. Some, but by not [sic] means all, the inaccurate media coverage published was challenged by the force'.*
- 5.5.47 *In contrast, ex-DCO HARPER comments 'I do not think that we gave too much information in our press releases and when questions were asked on matters which I did not think we could comment, I did not say anything. There was a big difference between what I said and what was reported.'*
- 5.5.48 This Inquiry finds the summary and analysis by **X** to be a helpful description of the extent of the accuracy, balance and appropriateness of the Force's handling of key 'finds' post 23 February 2008. From the analysis, we conclude that there were substantial and serious failings which were certainly known to DCO HARPER. The analysis also helps us to form a view of the woeful lack of supervision of this key part of the investigation by CO POWER, a role only he could fulfil.

- 5.5.49 X , a former senior detective with experience of investigating more than 300 murders, assisted Operation Rectangle with advice. X comments on what X had seen in the media by early March 2008 and that the *'amount of information given to the press along with assumptions that were being made'* concerned X . X says *'in the Jersey investigation I had seen clips with the SIO – Mr HARPER on television, he appeared to portray mass murder on the Island along with an ongoing child abuse investigation'*.
- 5.5.50 Examples of these clips include: on 27 February 2008, DCO HARPER says to Sky News *'within the last short time we have gained partial access to the cellar'* and *'the reaction that was evident down there was similar to the reaction that we got from the dog when we found the partial human remains, yes'*
- 5.5.51 On 21 May 2008, DCO HARPER says to the BBC cameras after pictures are shown of officers sifting soil and identifying a tooth *'we have a dead child or dead children in that cellar, now we don't know yet how they got there we don't know how they died, but we do know that within that cellar there is at least one dead child and maybe more and anybody who wants to denigrate that or try and minimise that, then I would ask them to look at themselves'*.
- 5.5.52 ITV National New on 31 July 2008, showed DCO HARPER reporting *'now you cannot get away from the fact that we know there are the remains, partial remains of a least five children within those cellars. Now we can't say how they died, we can't say when they died but the fact remains that there are children's remains buried inside that cellar and that is a horrific thought.'*
- 5.5.53 During a media interview on 28 February 2008, the ITV Channel Television reporter is heard stating *'on Saturday morning they found a fragment of a skull not thought to be much more than a 50p piece'* but then clarified that no bodies have been dragged from the building and then runs a clip of DCO HARPER at the scene saying *'there have been a couple of in instances in the last few days when totally*

erroneous statements have appeared , for instance yesterday there was one channel covering the story that we had dragged two bodies out. This causes an awful lot of work for our enquiry team, it adds pressure onto everybody and it does not help'. We have assumed that DCO HARPER is trying to correct this misleading report.

5.5.54 Within his statement, CO POWER makes little reference to the tone and language of the States of Jersey Police media releases. He recalls that there was no intention to encourage a media presence at Haut de la Garenne as they had '*hoped to undertake necessary work at HDLG and to leave afterwards, with the minimum media attention*'. CO POWER emphasises that their intention was to be as '*transparent as the circumstances allowed. This was to build confidence in the enquiry and to encourage anyone with evidence to come forward*'.

5.5.55 CO POWER maintained that the media lines were '*consistent and well co-ordinated*' and that they went to lengths to explain to the public that '*everything which had been found could have an innocent explanation*'. His statement refers to the monitoring of DCO HARPER's interviews by Sky News and that in their regular meetings the media strategy was discussed. His overall view was '*that the media coverage was opening doors, and bringing in new evidence*'. The following table provides details of the number of victims who made an initial contact with the States of Jersey Police during Operation Rectangle. The table reflects the different phases of the Operation and breaks down the first contacts into the different types of allegation made. Appendix 2 details the results of those allegations.

1st Contact		Attempted. Indecent Assault	Common Assault	Indecent Assault	Date	Actual Bodily Harm	Grievous Bodily Harm	Rape	Sodomy	Grand Total
Covert Phase	Sept 2007	0	3	7		0	0	0	0	10
	Oct 2007	0	0	1		0	0	0	0	1
Overt Phase	Nov 2007	0	12	18	22 nd Nov. Press appeal	3	0	3	4	40
	Dec 2007	0	13	10		0	0	1	0	24
	Jan 2008	0	31	16		6	0	0	4	57
	Feb 2008	2	38	30	23 Feb 08 JAR/6 announced	1	2	2	10	85
Homicide Phase	Mar 2008	0	54	36		6	0	4	11	111
	Apr 2008	0	5	2		0	0	0	1	8
	May 2008	0	9	2		0	0	1	0	12
	Jun 2008	0	2	5		1	0	0	4	12
	Jul 2008	0	7	2		1	0	0	0	10
	Aug 2008	0	1	0		0	0	0	0	1
Exit Phase	Nov 2008	0	1	1		0	0	0	0	2
	Grand Total	2	176	130		18	2	11	34	373

5.5.56 The above table, adapted by Operation Haven, demonstrates that the increased media coverage of Operation Rectangle did encourage witnesses and complainants to come forward. Following the events of 23 February 2008 there was a huge increase in contact from potential victims, but which lessened during April, May and June even when the media releases made by the States of Jersey Police were in a similar vein. This Inquiry believes that credit should be given to Operation Rectangle for the increased contact from would-be victims but this could have been achieved with accurate portrayal of the 'finds' without

resort to sensationalism. Victims could have been encouraged to report simply on the basis that a search was being conducted at Haut de la Garenne. It is sad, in light of this, that the grossly naive content of the press releases ultimately caused uncertainty, increased expenditure and damage to the reputation of the enquiry and the States of Jersey. These consequences will be referred to later.

5.5.57 In conclusion, this Inquiry draws attention to the standard outlined in the Murder Investigation Manual 2006 and quoted earlier *‘the chief officer’s strategic role is primarily one of quality assurance’*. Although CO POWER will maintain that he discussed the media strategy with DCO HARPER, irresponsible press releases continued to be issued which contained inappropriate language and were inflammatory in nature. CO POWER’s statement suggests little criticism of the content of DCO HARPER’s media releases and leaves the impression that he either agreed or condoned their release or failed to supervise DCO HARPER’s work or perhaps had no real grip on the media ‘strategy’ at all. The content of the press releases has come under much criticism from media experts, senior police officers and politicians alike. This Inquiry suggests that CO POWER made little, if any, effort at ‘quality assurance’ and allowed the essence of the releases to remain unchecked, even in light of the furore that surrounded them. CO POWER also failed to ‘quality assure’ the subsequent coverage from the media as it misrepresented the facts. Minimal challenge or attempts at correction were made and the media at large were left unfettered in their sensationalism and speculation.

- **Conclusion 17**

5.5.58 **CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.**

5.6 Operation Rectangle Exhibit JAR/6 ‘human bone’

- 5.6.1 Whilst the initial media disclosure of 23 February 2008 and the emotive content of following releases undoubtedly contributed to the media frenzy that ensued, the events surrounding discovery of the fragment Exhibit JAR/6 and the actions of the States of Jersey Police away from the public gaze, are of equal cause for concern. The following chronology is important as it will put the comments at the end of this section into context. Whilst it may appear as simply a long list of events, the correspondence ‘trail’ generated from the discovery of Exhibit JAR/6 is critical in providing understanding of exactly what happened.
- 5.6.2 Following the discovery of Exhibit JAR/6 on 23 February 2008 and the initial ‘identification’ of it by the forensic anthropologist, **X**, it was submitted to a forensic laboratory in Oxford for dating and examination.
- 5.6.3 At 17:26 hours on 28 March 2008, **X**, from the Oxford laboratory, raised concerns with Forensic Services Manager **X** over the chemical reaction Exhibit JAR/6 had given in certain tests. Doubts were expressed about its identity and questions raised as to the authenticity of the original identification.
- 5.6.4 Three days later, Forensic Services Manager **X** was contacted by **X**, also from the Oxford laboratory, confirming this uncertainty. **X** stated that **X** believed Exhibit JAR/6 to be coconut or wood ‘On 31st March’ 08, I spoke to **X** in the laboratory and then made an examination of the exhibit immediately. I immediately recognised that the sample was NOT bone and stated that to **X**. I based my conclusions on the lightness of the material, the texture of the material and the porosity of the internal structure of the sample. I then consulted with a colleague, **X** of the British Museum, taking the sample with me for **X** to see. In **X** opinion, **X**, after examination, agreed with my conclusions that the sample was not bone, but another material, that is, wood. I made the

decision to consult with X and contact X to inform X as to my findings, that same day. I telephoned X that same day'. The sample was then returned to store at Haut de la Garenne on 4 April 2008.

- 5.6.5 On 1 April 2008, DCO HARPER wrote Media Policy Decision 11 *'to issue regular updates to media through press officer'*. The reason given was *'to maintain profile to reassure victims and witnesses that the enquiry is still active and is not being wound down and to maintain confidence in enquiry team'*.
- 5.6.6 No mention was made of the views recently obtained from the laboratory and no media release was made confirming there was now doubt as to the origin of what had been found. A week later on 8 April 2008, a further press announcement from the States of Jersey Police discussed events from the 25 March 2008, and can be seen as still referring to 'bone' *'this leaves us with no knowledge of how, when, or indeed, where, the person died'*.
- 5.6.7 The Press Officer, X, states X was unaware of the opinion of X, but that if X had been, X would have been very uncomfortable with the content of the press release, which had been written by DCO HARPER himself and sent to X by e-mail.
- 5.6.8 Following the press release made on 8 April 2008 by the States of Jersey Police, X again contacted the States of Jersey Police to urge them to obtain a second opinion. The forensic anthropologist X made a cursory re-examination of the fragment, but this was conducted in poor light. X confirmed to Forensic Services X that X still thought it looked like human bone.
- 5.6.9 On 9 April 2008, a second re-examination of Exhibit JAR/6 was made by X which caused X to change X original opinion. X was no longer confident that Exhibit JAR/6 was human bone and informed both Forensic Service Manager X and

DCO HARPER of that. Further testing was discussed, but DCO HARPER decided this was unwarranted as the temporal context in which Exhibit JAR/6 had been located fell outside the established time parameters for Operation Rectangle thereby ruling it out of the enquiry.

- 5.6.10 CO POWER describes that during his regular meetings with DCO HARPER, he was told by DCO HARPER that the dating of the contextual material in which Exhibit JAR/6 was found had placed it outside the parameters of the enquiry because of its age. However, he is not specific as to when this was said. He will state that at no time did DCO HARPER ever suggest that there was any doubt regarding the identity of what had been discovered.
- 5.6.11 On 14 April 2008, X received enquiries from the national press regarding the fragment. X contacted DCO HARPER for advice on an appropriate response and was advised to speak in general terms without discussing the exhibit. No details were released about the fragment. X subsequently drafted a letter giving a detailed account of the findings to DCO HARPER in order that there were no misunderstandings. This letter was dated 1 May 2008, and we comment further about it later (see paragraph 5.6.18).
- 5.6.12 A press announcement was made on 18 April 2008 by the States of Jersey Police *'To clear some confusion which seems to exist, the SoJP would like to clarify the following facts on the fragment of skull found at Haut de la Garenne. We were not able to date the fragment. Therefore we cannot say how old it is or when, or indeed where or how, the person died. We know from the Archaeological context in which it was found that it's placement in the area where we recovered it pre-dates the 1940's. We also know that it was placed there after the building came into use. This means that the person must have died before the 1940's. However, we cannot say if the actual death occurred before it was moved to where we found it. It follows therefore that the bone could date from the period just before 1940, the Victorian*

era, or indeed, even earlier if it was moved here from a previous location. In the light of that, it is unlikely that we will instigate a formal homicide enquiry in relation to this bone alone. Although no formal parameters have been placed on the enquiry, it is unlikely that we would pursue any lead which tended to take us to a period before the end of World War two. However, the site of the home must remain the scene of a possible homicide until such time as all the areas of interest which have been flagged up to us have been excavated and cleared. This work continues with the finding over the last few days of a number of bloodstained items in cellars three and four, although we emphasise that at this stage we do not know if these items have an innocent explanation. As stated however, it is unlikely that a formal homicide enquiry could be justified in circumstances where the suspects are very likely deceased. As well as having huge financial implications such an enquiry would also detract from the serious allegations of criminal abuse in which the victims and suspects are still alive.'

- 5.6.13 Despite the findings of the laboratory, DCO HARPER continued to use language suggesting the origin of the 'find' was human – when he surely knew that it was not.
- 5.6.14 X will state that X was not aware that X had changed X opinion on the fragment before 18 April 2008. Again, had X known, X would also have been very uncomfortable about the content of this press release which X confirms was also prepared by DCO HARPER and sent to X by e-mail.
- 5.6.15 On 21 April 2008 X of the ACPO Homicide Working Group, was informed by telephone by DCO HARPER *'that he has planned a press release on the date of the partial skull, that it was pre-1940 to explain that the partial skull was dated pre-1940 and, therefore, he was not treating it as homicide'*. DCO HARPER was advised to do so as soon as possible.

- 5.6.16 Deputy Sean POWER asked a Parliamentary question of Senator Wendy KINNARD on 29 April 2008 *'given that the States of Jersey Police have confirmed that the fragment of skull found at Haut de la Garenne is possibly over 50 years old, would the Minister now agree that the statement made by the Deputy Chief of Police on 23 February 2008 referring to what appeared to be the partial remains of a child was an inappropriate summary of the situation at the time'*. The full reply is reproduced in an extract from Hansard which includes Senator KINNARD saying *'The statement made about the fragment of skull on 23rd February 2008 was accurate. It was and continues to be the partial remains of a child. The police have always maintained that they did not know when, where or how the person died. The fact that it was not proved possible to date the fragment of skull does not change the fact of what it was, nor does it remove the possibility that he or she died of foul play'*.
- 5.6.17 On 30 April 2008, Senator James PERCHARD, after being informed by a journalist that the tests conducted on the 'bone' to date had been inconclusive, asked CO POWER (in an e-mail) if he was able to confirm that the formal laboratory tests validate the opinion of the on-site UK archaeologist that it was the remains of a human. CO POWER stated that he believed this to be the case. CO POWER's recollection is that, before responding, he e-mailed DCO HARPER and took his response to be confirmation that nothing had changed. He states that having re-read the e-mail when making his statement to Operation Haven, he considers DCO HARPER to be less specific than he should have been to the point where it appears he was avoiding the question. He states that the response did not alert him to the possibility that the fragment might not be bone.
- 5.6.18 The letter (see paragraph 5.6.11) from the Oxford laboratory was prepared on 1 May 2008 addressed to DCO HARPER and states *'This letter summarises the work we have undertaken concerning the analysis of material related to the above enquiry. In March 2008 the Oxford Radiocarbon Accelerator Unit (ORAU) was sent material from*

the States of Jersey Police for AMS radiocarbon dating. The sample was formally identified as bone, probably from the skullcap of an infant, by X, a forensic archaeologist working for the Jersey police. We received the sample from X (Forensic Services Manager, States of Jersey Police).

5.6.19 *The sample was logged into the ORAU system in the usual manner and, as in all cases, a sample of bone powder was drilled from the underside of the specimen using a tungsten carbide drill. The powder weighed 440 mg. The technician performing this procedure noted that the material did not behave as bone ordinarily would and did not have the texture that normal bone exhibits. The technician has a great deal of experience in the sampling of bone (almost 30 years). Because of this uncertainty, and as a precaution, a small amount of the sample was combusted to measure the % nitrogen remaining. % N is a good correlate for protein, which is dominated in bone by collagen, and the measurement of nitrogen offers a simple test concerning whether the sample is dateable or not. Low % N means that the material is essentially un-dateable using radiocarbon.*

5.6.20 *X (ORAU) reported that the Jersey sample only had 0.6 % N. Ordinarily this is too low to yield extractable collagen of any quality. Despite our concerns, X requested that a fuller chemical treatment be undertaken, in an attempt to produce a result, but although some material was extracted it was demonstrably not collagenous based on the analysis of the texture of the material, the C:N atomic ratios and the similarly significant lack of nitrogen, so the sample was formally failed and the States of Jersey Police notified.*

5.6.21 *A further analysis of the bone sample later the following week by X and X (British Museum faunal specialist and one of our collaborators in work undertaken in the ORAU) concluded that the sample was not in fact bone, but was almost certainly wood. It seemed surprising to us that the material could be so confidently identified by X, and particularly that it could*

be determined to be an infant specimen. We informed X of our concerns shortly afterwards, by phone and e-mail. We stand by our original assessment. We suggest that the curvature of the material may have had something to do with the misidentification. We think it appears to be more like part of a large seed casing, or part of something like a small piece of coconut. Certainly, the density of the material is most unlike bone, it is too light. Our conclusion is that this sample is: a) not bone and b) not human. We are very surprised that the forensic archaeologist could be so confident and differ in X identification. We suggested at the time that a further opinion would be required, but this not considered by X. A further analysis of the bone structure under a suitable microscope would confirm the situation rapidly.

5.6.22 *If this sample is bone and close to modern in age, then it would be unusual in our experience for it to be so poorly preserved and lacking in collagen. One would expect normally that for a bone coming from the last few decades that at least some collagen would survive. In the absence of collagen, one would conclude that the bone is probably older than this, possibly by several hundred or even several thousands of years. In this light, it is not liable to be of forensic interest. Our assessment is, however, that it is almost certainly not bone and it is for this reason that we have significant doubts over its forensic importance. This probably explains the problems we encountered with the sample and the fact that it is not able to be dated using collagen extraction techniques.*

5.6.23 On 5 May 2008, CO POWER sent an additional e-mail to Senator James PERCHARD referring to Senator PERCHARD's e-mail of 30 April 2008 stating that he (CO POWER) had now checked with DCO HARPER and 'the bone was sent to the UK to be dated. There is no scientific dispute regarding the fact that it is human'. He confirms that dating the fragment was not possible but on the basis of the surrounding material, it was from some time in the 20th century if he remembered correctly. Senator PERCHARD replied that there was a

rumour in existence that stated the skull was not human and that maybe when the time is right it would be advisable to put the record straight 'publicly' on this. The response from CO POWER was '*I think that it will be possible to do this as part of a general release relating to the scientific results of more recent finds when these are available*'. Whilst this approach sounds reasonable, this Inquiry can find no evidence that the States of Jersey Police did make such a 'general release' prior to the press conference on 12 November 2008. This Inquiry believes that CO POWER may not have been aware of the status of Exhibit JAR/6 as a result of the lack of objective assessment by DCO HARPER.

- 5.6.24 During the second week of May 2008, X was visited by a journalist, X from the Mail on Sunday. X confirmed to X that the Police had been made aware of X findings since 31 March 2008. The same week, X told X that DCO HARPER had not received X letter of 1 May 2008. X e-mailed DCO HARPER a copy the same day. There does not appear to be a response to the contrary or indeed any sort of response from X when DCO HARPER replies '*so I can definitely enter into our system now that you say this is absolutely not bone*'. If there had been any room for doubt beforehand, there was no longer any, on 17 May 2008 Exhibit JAR/6 was not, according to the scientists, human bone.
- 5.6.25 The original letter dated 1 May 2008 which ex-DCO HARPER says he did not see, was subsequently found amongst his Personal Assistant's, X, paperwork. It cannot be established for certain whether or not DCO HARPER had sight of the contents prior to the copy being sent by X.
- 5.6.26 The Mail on Sunday, 18 May 2008, included an article in which they declared '*human bone at the centre of inquiry is actually a piece of wood or coconut shell*'.

- 5.6.27 At 08:47 hours on 18 May 2008, DCO HARPER sent an e-mail to X containing an attached press release for circulation.
- 5.6.28 It summarised the findings of the examination of Exhibit JAR/6 by the laboratory. Whilst the doubt about the fragment examined at the end of March is referred to, he does not mention X assessment on 8 April 2008, or the reversal of previously held opinion by X. Within the press release DCO HARPER maintains his position of discounting Exhibit JAR/6 from the enquiry based on its geological context. He claimed the letter of 1 May 2008 was never received. *'Yesterday, (17th May) a letter was e mailed from the Laboratory setting out their opinions. Despite the inference in the article concerned, this was the first that the Enquiry team knew of any letter. Police were informed of that letter yesterday by the media, and requested a copy. As a result of a comment within the letter about the possible age of the bone, the Laboratory staff were asked if they were definitely stating the item was not bone. The reply was that although in their view it was not a bone, if the police wanted to show definitively what it was they would need to have it examined by a further specialist'*.
- 5.6.29 DCO HARPER continued to recount in the same press release, details of recent finds – 20 pieces of bone and six children's teeth – which were all found in the cellar area. He spoke of expecting the results of forensic tests to date them in the next week stating *'at that stage we will know more about the possibility that there might have been unexplained deaths of children within Haut de la Garenne'*
- 5.6.30 This press release by DCO HARPER prompted various exchanges of e-mail between CO POWER, Senator Wendy KINNARD and Senator James PERCHARD. Senator PERCHARD brought the e-mail of 5 May 2008 (paragraph 3.5.19) to the attention of the Council of Ministers (by e-mail) when CO POWER asserted that *'there is no scientific dispute regarding the fact that it is human'*

(paragraph 3.5.19), to the attention of the Council of Ministers (by email). Senator PERCHARD suggested that this should now be the subject of a public statement. At 21:14 hours on 18 May 2008, Senator KINNARD, referring to Senator PERCHARD'S comments, asked CO POWER, by e-mail, to advise on how she should respond. At 08:15 hours on 19 May 2008, he replied by e-mail to the effect that he supported what she proposed to say to the Senator. In essence, this did little more than suggest that many items had been sent for examination. Subsequent e-mails from Senator KINNARD to CO POWER include her observations that she will be asked when exactly DCO HARPER knew the fragment was not bone. According to his pocket notebook, CO POWER left the office at 14.40 hours on 19 May 2008 to travel to an ACPO function that day and then on to the Isle of Man. This may explain the lack of any record of response being found.

- 5.6.31 Senator KINNARD sent CO POWER a copy of her press release on 19 May 2008, which ended *'the police continue to have my full support and must be allowed to continue uninterrupted in their important work. I fully understand the public's concern with the most recent media reporting but would respectfully ask that they await the final outcome of the investigation'*.
- 5.6.32 On 20 May 2008, CO POWER was in the Isle of Man for a meeting. He states in his witness statement that someone told him that the first 'find' was a piece of coconut and that this came as a total *'bolt from the blue'*. In light of the sequence of events outlined above, this Inquiry is sceptical that CO POWER had no inkling of this, especially bearing in mind the existence of daily meetings between himself and DCO HARPER. Nevertheless, it appears that by 20 May 2008 – at the latest – CO POWER accepts that he was now fully aware doubts existed about the nature of Exhibit JAR/6.
- 5.6.33 In his statement, CO POWER explains that he had discussions with DCO HARPER and Senator Wendy KINNARD where he sought more

information and advised on 'holding lines' to take with the media. He states that he asked DCO HARPER directly about the doubts over the first 'find'. CO POWER was told by DCO HARPER that there had been confusing messages coming from the Laboratory, and that DCO HARPER would '*take full responsibility*'. He recalls DCO HARPER giving a live media interview and in the words of CO POWER '*As I recall, he said that the scientific evidence was inconclusive, but apart from that, the age of the sample put it outside the parameters of the enquiry*'. When challenged by the media as to why he did not report this earlier, he (DCO HARPER) said that it was to protect victims because he knew that if doubts became public some Jersey Politicians would use the opportunity to attack and undermine the victims and witnesses. If CO POWER's recollection is correct, he had grounds to suspect that Exhibit JAR/6 was not human, yet permitted or failed to correct DCO HARPER's continuing misleading statements about the scientific evidence being 'inconclusive'.

5.6.34 In his statement, CO POWER comments on how he addressed this matter with the Chief Executive Bill OGLE and Senator Wendy KINNARD '*I recall that I gave strong advice. I said that we should bring the issue within a formal accountability process, and seek to close down further discussion meanwhile. I pointed out that the Minister had the authority to require a report on any matter of concern, and that she should do this. She should then refuse to give any further comment on the basis that she was awaiting a report, and she would decide on any further measures when this had been studied. Accordingly, I asked Lenny to submit a report on the whole issue. He did this*'. This Inquiry feels this attempt to 'close down further discussions' was unhealthy procrastination. An open and transparent approach would have been to report what was known at that time. CO POWER failed to do so.

5.6.35 The report written by DCO HARPER summarised the examination of Exhibit JAR/6. He continued with the assertion that Exhibit JAR/6 had been discounted from the enquiry and that the messages originating

from the laboratory were confusing. The report omits the crucial re-examination of Exhibit JAR/6 by the anthropologist X and X revised opinion, therefore, providing an overall impression that the identity of Exhibit JAR/6 had still not been clarified. This Inquiry can find no evidence of CO POWER's robust critique of DCO HARPER's 'spin'.

- 5.6.36 Further questions were asked in the States about when the States of Jersey Police were aware of the fact that Exhibit JAR/6 was not bone. On 3 June 2008, Deputy Sean POWER asked a second question of Deputy Andrew LEWIS *'in view of the forensic opinions as to the nature of the alleged fragment of skull found at Haut de la Garenne, does the Assistant Minister still maintain the view that the comments made by the Deputy Chief of Police at a press conference on 23rd February were appropriate?'* The reply from Deputy Andrew LEWIS was *'The Minister has asked the Chief Officer of the States of Jersey Police for a written report which will cover information conveyed to the media. The report has been prepared but as yet not been reviewed and signed-off by the Chief of Police. Once he has done so and I have had the opportunity to consider the report myself and taken any appropriate advice from the Law Officers, I will issue a statement. I acknowledge the need to expedite this matter to report back to the House on or before the next sitting'*.
- 5.6.37 On 8 June 2008, CO POWER sent an e-mail to DCO HARPER asking what the position was regarding the fragment. The reply on the 9 June 2008 from DCO HARPER added his answers to the original e-mail from CO POWER *'What is the position of the fragment now??'. [Harper, Lenny] It has been ruled out of the enquiry as a result of the evidence from the Archaeologists which puts it there no later than 1940. Consequently it does not come within our parameters... do we have a conclusive finding??... [Harper, Lenny] No. The Anthropologist identified it as human bone. The lab found collagen but then said if it was collagen it was badly degraded. Their position is that they don't think it is bone but if it is it is very old. Are there to be further tests??'*

[Harper, Lenny] No. There is no point in sending it for DNA as it has been excluded from the enquiry. 2. What is our position in relation to the fragment??... Are we accepting that it is not human or do we see the results as inconclusive?? [Harper, Lenny] We see the results now as inconclusive'.

- 5.6.38 This inaccurate view is not challenged by CO POWER who, if he had any doubt, could have sought an independent review. He did not do so and the police and politicians were being misled.
- 5.6.39 On 17 June 2008, Deputy Andrew LEWIS provided a statement to the States. It said *'I have now reviewed the Chief Officer's report and relevant correspondence and am able to answer the questions raised by Senator Perchard and Deputy Power that were referred at the last sitting. It remains the case that is no definitive scientific finding as to the nature of the fragment found on 23rd February 2008, which might indicate whether or not the statement made subsequently by the Senior Investigating Officer was incorrect. So I trust Members will understand that this is an ongoing investigation and that therefore it is not possible to make any further comment. If deemed necessary, any such matters could form part of a brief for the Committee of Inquiry which has been proposed to proceed upon completion of the investigation'.*
- 5.6.40 It is evident that CO POWER made some efforts to clarify the position in relation to Exhibit JAR/6, but the important questions surround the timing of those efforts, the rigour of his critique and what he did with the subsequent knowledge. If, as outlined by CO POWER and ex-DCO HARPER, daily meetings occurred between the two of them, then it may be reasonable to infer that forensic examination of Exhibit JAR/6 would be important to their discussions. The above chronology covers key dates when DCO HARPER was informed of the state of the evidence in relation to the item being 'bone' and although it was incumbent on DCO HARPER to inform CO POWER, this Inquiry would suggest that there was a responsibility of the Chief Officer to ensure

that such an extremely pertinent and contentious issue was thoroughly aired and examined by him.

- 5.6.41 Exactly when CO POWER discovered the reality of the origins of Exhibit JAR/6 is open to conjecture, but by his own admission he was aware by 20 May 2008. Claims of *'no scientific dispute'* on 5 May 2008 were post X re-examination of 9 April 2008 and after the letter was sent from the Oxford laboratory. If CO POWER is given the benefit of the doubt on that occasion it means that he was actively misled by DCO HARPER. If not, then his assertion that on 20 May 2008 the news was like a *'bolt from the blue'* is questionable.
- 5.6.42 What is clear is that even after 20 May 2008, CO POWER failed to clarify to the States and the public, the status of Exhibit JAR/6. This lack of candour falls seriously below the standard expected of Chief Officers.
- 5.6.43 The standard outlined in the Murder Investigation Manual 2006 – 'The Role of Chief Officers in Major Crime Investigations' under Media Issues, states; Section 3, page 80 is *'the chief officer's strategic role is primarily one of quality assurance'*.
- **Conclusion 18a**
- 5.6.44 **CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.**
- **Conclusion 18b**
- 5.6.45 **CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.**

- **Conclusion 18c**

5.6.46 **CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.**

5.7 The suspects ‘A’ incident

5.7.1 The details of the events that preceded the suspects ‘A’ incident have been discussed within the Supervision Section. In summary, this covered the breakdown in relationships between the prosecution legal team and DCO HARPER as SIO, after the advice provided by Barrister **X** in respect of suspects ‘A’, was contrary to that expected by DCO HARPER. At the core of that breakdown is the media release made by DCO HARPER on 24 June 2008.

5.7.2 Following the release from custody of the suspects ‘A’, a press release was dictated to Press Officer **X** by DCO HARPER at 22:00 hours, whilst **X** was at home. It said *‘After consultation with their [sic] lawyer appointed by the Attorney General, two people were arrested today (Tues 24 June) in connection with three grave and criminal assaults by the historical abuse team. At about 5pm today (Tues 24 June) the lawyer revised his advice to the investigating officers. Following discussion, the investigating officers requested a Centenier to attend Police Headquarters to charge the suspects. Despite stating that the evidence was present, the Centenier declined to charge. The States of Jersey Police have no alternative, therefore, but to release the two suspects without charge.’* **X** describes in **X** statement how **X** suggested that DCO HARPER should ‘sleep’ on the decision, **X** states **X** advice was ignored.

5.7.3 As a result of that press release, Attorney General William BAILHACHE received an e-mail request for comment from the Jersey Evening Post the following day, 25 June 2008. The Attorney General states they were *‘seeking a comment on the allegation that I interfered with the advice given by the UK lawyer and instructed him to*

advise that no charge should be brought'. The Attorney General summoned CO POWER and Deputy Andrew LEWIS to a meeting, which included X . A written explanation was requested from the Attorney General as to the reasons the States of Jersey Police had issued the release. He also asked for a commitment that *'this type of attack on the prosecution would not be repeated'*.

- 5.7.4 The Attorney General specifically told CO POWER that the conduct of the DCO had seriously jeopardised the current prosecutions. He described it as *'irresponsible and damaging to the criminal justice process in Jersey'*.
- 5.7.5 Looking back on events, CO POWER comments in some detail on the incident in his statement, saying *'I read it and recognised that it would cause problems... the Attorney General was angry regarding the events surrounding the arrest and release of [suspects 'A'], and I could understand why. At the appropriate time I steered the conversation towards the need for a recovery plan. I emphasised that I was in the process of introducing a new management team to the enquiry and I had spoken that morning to David Warcup and obtained his agreement that the future of the enquiry would be structured around the concept of a 'mixed' team of police officers and lawyers'*.
- 5.7.6 He continues *'following the meeting with the Attorney General I had a face to face discussion in my office with Lenny HARPER about the media release... I told him that nevertheless his actions had created something of a crisis which I would now have to manage. I instructed him as follows and later confirmed what I had said by e-mail. He should submit a written duty report on the incident; There should be no further arrests without specific written advice from the Law Officers; All relevant press statements will be cleared with the Law Officers before release'*. If correct, this account paints a picture of more positive and intrusive supervision which had been lacking in Operation Rectangle, in our view.

- 5.7.7 The written report by DCO HARPER, dated 29 June 2008, covers, in detail his relationship with Barrister X . DCO HARPER's reason for the release is best explained with the following verbatim account *'I issued the press release to explain to the public, but mainly to the victims, why these two suspects had been released. I feel, as do the investigators, that we were badly let down by the legal advice delivered from afar'*.
- 5.7.8 Whilst the subject of the relationship between the DCO and the legal team is explained elsewhere, we consider it again here to assess the role of CO POWER. To his credit, it could be argued that CO POWER took action when confronted by the Attorney General. The account provided shows some level of admonishment of DCO HARPER. CO POWER states *'I told Mr HARPER that I would be engaged in further discussions with the Attorney General on the management of the problems arising from this event. I acknowledged that he was approaching the end of his service and was about to take a period of leave, before returning to conclude his role in relation to Rectangle'*. It was unfortunate that it took the forceful intervention of the Attorney General to persuade CO POWER to actually give a directive to this DCO. Even then, the imminent retirement of DCO HARPER was permitted by CO POWER to neuter the opportunity to supervise the DCO more closely.
- 5.7.9 Even so, following the press release, which brought into sharp focus the deteriorating relationship with the lawyers, CO POWER should have ensured DCO HARPER's response provided to the Attorney General, was both conciliatory in nature and intended to improve the future working relationship between the legal team and the States of Jersey Police. Comments such as *'a further example of the poor service given to us'* and *'is another example of the shoddy and unprofessional service we are receiving'* did nothing to enhance this relationship. The report submitted by DCO HARPER was described by the Attorney General as *'inaccurate and unhelpful'*. It is not clear whether CO POWER considered the relationship between

DCO HARPER and the lawyers to be unworkable. Certainly we can find no documented evidence of his considerations. It does appear to this Inquiry that he preferred to 'see out' the time before the retirement of his DCO.

5.7.10 It appears to this Inquiry that the relationship between DCO HARPER and CO POWER is central to understanding how the catalogue of problems involving DCO HARPER was managed. If one is to believe the regular meetings between the two covered all aspects of Operation Rectangle, including the media releases (as outlined previously), then one should expect that CO POWER would be addressing the cumulative effect of the latter's leadership 'style' on Operation Rectangle, and the criticism being levelled at the enquiry in general and at them specifically. The States of Jersey Police press releases had attracted censure from politicians and the legal profession. Criticism had been made of the release of 23 February 2008, the nature of continued coverage, and the provenance of Exhibit JAR/6. Had CO POWER had firmer control of DCO HARPER, particularly in the area of media management, then it is certainly likely, in the view of this Inquiry, that the entire furore surrounding Operation Rectangle would have been avoided.

- **Conclusion 19**

5.7.11 **CO POWER created and/or permitted an environment where his lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.**

5.8 Corrective measures taken after DCO HARPER's retirement

5.8.1 Even following the retirement of DCO HARPER, concerns continued to be raised by senior States members with regard to the media

management of Operation Rectangle. On 6 August 2008, two days after his appointment, DCO WARCUP met with Assistant Home Affairs Minister Andrew LEWIS, who voiced concern at the media approach being engaged by the Force. Assurances were provided by DCO WARCUP that a different approach to the handling of the enquiry would be adopted.

- 5.8.2 On 11 August 2008, DCO WARCUP advised **OFFICER X** that a further press strategy should be developed, which committed to advising key stakeholders of progress and that a consistent approach to media matters would be employed. A key theme throughout was to ensure the enquiry progressed with the minimum of speculation in the media regarding the evidence.
- 5.8.3 On 21 August 2008, Chief Executive Bill OGLEY suggested to CO POWER that any outstanding questions in relation to the supposed skull fragments should now be answered. With the appointment of the new DCO and the forthcoming new SIO, Bill OGLEY considered that the time would be appropriate. The response from CO POWER stated *'Bill. My understanding is that there is no conclusive scientific finding one way or the other. This was as you recall reported upon in some detail in the report to Ministers which Wendy requested and which I assume that you are familiar with. I think however that this will be covered in the forensic review which is imminent. I will ask David and get back to you'*. The matter was referred to DCO WARCUP by CO POWER.
- 5.8.4 With the increasing concerns over the investigation, and the potential for the forthcoming trials to be compromised with abuse of process claims, DCO WARCUP felt it appropriate to engage a police media advisor. On 15 September 2008, proposed terms of reference were provided to **X**, who had been approached to fulfil this role.
- 5.8.5 In his statement, CO POWER reflects on this period and comments on DCO WARCUP's suggestion to hold a press conference at which it

was proposed by DCO WARCUP to 'put the record straight'. CO POWER did not see the necessity to do so '*I was aware of nothing significant which had not already been addressed during the final weeks of Lenny Harper's service*'. He suggested '*If subsequent forensic results were changing the picture, as it could be expected that they would, then my recommended approach was to gradually feed these into the public domain through a series of short statements and interviews, possibly tagged on to other media issues*'. This Inquiry feels that it is unhelpful to speculate on the outcome had CO POWER had his way. However, his proposed approach clearly sits in contrast to the open, honest and transparent approach that was being suggested by DCO WARCUP.

- 5.8.6 There was additional pressure on CO POWER to act when he received a further update on Operation Rectangle from DCO WARCUP on 2 October 2008. He was informed of the continuing difficulties in relation to the items found at Haut de la Garenne and the need for clarification of information in the public arena. ACO WARCUP suggests that he reiterated his views the following day, that it was essential to put the public record straight.
- 5.8.7 ACO WARCUP reports in his witness statement that discussions with CO POWER continued during which DCO WARCUP's proposals to address the media in order to clarify matters and deal with any misconceptions repeatedly. ACO WARCUP's statement sums up the frustration he was experiencing in attempting to convince the Chief Officer of the need for immediate remedial action '*I then discussed the media proposals which were to be measured, proportionate and would not be aimed at individuals, they would however clarify a number of misconceptions and public concerns which remained and needed clarifying, i.e. the initial finds, cellars, the role of the enquiry. The timing as previously discussed was critical vis a vis the upcoming trials. Mr POWER advised me that he did not feel that it was necessary to do a proactive press release. He told me he was due to go on a radio programme in November to deal with crime statistics and*

felt that he was bound to get a question re the enquiry at which time he would deal with the issue.'

5.8.8 ACO WARCUP continued *'I made it clear time and time again that if we did not address the issues then there was a real and distinct possibility that the defence would argue for an abuse of process in relation to the forthcoming trials. Secondly, I made it clear that there was an issue of integrity. The public had been misled and it was therefore important to put the record straight. I also noted at the time, that this was the third conversation in the recent past during which key aspects of the enquiry were discussed and it is apparent that Mr POWER was unaware of key details such as the forensic findings in relation to the 'piece of skull.'* As a result I repeatedly offered to provide more detailed information, something which has never been taken up. In view of the lack of progress with the Chief Officer I advised him that I would continue to develop a strategy in relation to the media'.

5.8.9 ACO WARCUP's statement suggests he had genuine concerns in relation to the false impression the public had of the investigation but his efforts to address the problems together with the Chief Officer were not well received. The issue is which, if either view, was more reasonable in the circumstances? On one hand, a proposal to 'drip feed' additional information intending to clarify and stabilise the position over time (CO POWER) or a major, pre-planned conference specifically to address and clarify inaccuracies and misunderstandings (DCO WARCUP). Noting the way in which the media reporting had got out of control over a sustained period, there is only one logical and ethical answer and that is DCO WARCUP's approach. So clear is our conclusion, this Inquiry is left with the concern that CO POWER's approach would have further misled the public.

5.8.10 On 6 October 2008, **X** commenced work in Jersey, agreeing to conduct an 'External Communications Review' pertaining to Operation Rectangle. The terms of reference for this review, agreed

by DCO WARCUP, were *'an assessment of external communications strategy to date. Written recommendations of how the service should approach the media in relation to the future progress of the investigation with due regard to protecting the development of the investigation, its outcome, the reputation of the States of Jersey Police and of key individuals within the service'*.

5.8.11 After two days, X came to various conclusions regarding the media strategy employed by the States of Jersey Police in respect of Operation Rectangle to that point. X had also decided on the most appropriate exit strategy for the States of Jersey Police to conclude the Haut de la Garenne aspect of the enquiry as far as public awareness was concerned, and how investigators should approach external communications related to the ongoing Historic Child Abuse Enquiry. X shared these views with DCO WARCUP and Detective Superintendent Michael GRADWELL.

5.8.12 A brief overview of X conclusions was provided at a Gold Group meeting on 7 October 2008. X was made aware by DCO WARCUP and Detective Superintendent GRADWELL that X recommended approach to drawing a line under the Haut de la Garenne part of the enquiry differed from the views of CO POWER. CO POWER intended issuing a very brief one paragraph statement to the media explaining that there was insufficient evidence to support a murder investigation and nothing more. X view was that this was not the correct strategy. In order to obtain clarity, X met with CO POWER and informed him that DCO HARPER had misrepresented what had been found at Haut de la Garenne and had misled the public. X commented on the recovery of 'a skull fragment' being described as *'the partial remains of a child'* and the description of under the floor voids as *'cellars'*. In response to the suggestion that the public had been misled, CO POWER is alleged to have replied *'so bloody what'*. There was an acceptance by CO POWER that the representation of one artefact as a *'fragment of skull'* was *'stretching it'*, but in the entire conversation, it is suggested

by X that this was the only point that CO POWER conceded.

5.8.13 X provides a comprehensive summary of X discussion with CO POWER *'I suggested to him that the strategy employed by the police had led the media to assume and the public to believe that the remains of a number of children had been found at HDLG and that they had probably died through criminal act. I explained that I had now been briefed that the evidence that had indeed been found, could not possibly further any criminal proceedings and that in itself did not warrant the presentation in the media that it received. I recommended to him that the force was duty bound now that the murder investigation had finished, to announce this much publicly and to apologise for what I believed to be the inaccurate description and presentation of 'the finds' recovered from Haut de la Garenne. I explained that I was fully aware that some residents, journalists and opinion formers may regard such statements as a deliberate and further attempt by the police and other authorities to cover up child abuse of the gravest kind and for that reason recommended that all the finds or a selection of them should be put on display to the media. In that way, I explained I believed the public would accept that there was no firm evidence of any child having died at HDLG and that this was not an attempt to cover anything up'*.

5.8.14 X described CO POWER's response to this considered and clear plan *'the CO's immediate response was that he thought it highly unlikely that the Attorney General's office would condone such a strategy. He added and I paraphrase 'that he would most certainly not be standing up in front of journalists at a press conference holding up a bag of children's teeth, to be photographed'. This struck me as somewhat peculiar given that Lenny HARPER had indeed done exactly that, when teeth were being found in March, during the investigations. He made it abundantly plain, that there would not be a press conference, but his intention was merely to release a very brief press release and, thereafter, to decline any further requests for*

information or interviews from the media. He told me that many people living in Jersey, including politicians were corrupt and were paedophiles, that the means of Lenny's investigation fully justified the end and that 'Lenny should be commended for exposing it all'.

5.8.15 The possible motives behind the alleged comments attributed to CO POWER should be considered. Either CO POWER was afraid of exposing Operation Rectangle as a poorly run operation, or he genuinely but naively believed that DCO HARPER had done a professional job as the SIO and conducted himself well. If either motive is true, the conversation between X and CO POWER is deeply concerning. This Inquiry has no reason to doubt the accuracy of X recollections, as X made notes very soon after this memorable meeting.

5.8.16 As a result of this conversation X advised DCO WARCUP that X position was now untenable and that X contract had effectively been terminated. DCO WARCUP subsequently informed CO POWER of X decision, but he (CO POWER) continued to refuse to accept the need for a revised media strategy. DCO WARCUP outlined the following facts to the Chief Officer *'in an attempt to persuade him to agree a proper open response in dealing with the press:*

- *Lenny HARPER had put information into the public arena which had raised the profile of the enquiry*
- *This information had and has the potential to prejudice trials*
- *There is a strong need to ensure that the two issues, i.e. HDLG and the HA enquiry are separated*
- *The evidence at this time does not support the hypothesis that children were murdered, burned and buried at HDLG*
- *Opportunities to correct inaccuracies and misleading statements were not taken, for example when the press produced sensational headlines this was not challenged*

- *The question of the provenance etc of the alleged piece of skull was potentially irrelevant when one considered the context in which it was found*
- *The fact that we both wanted to clarify issues re HDLG was not in dispute, it was the means by which this will be done that is causing me some difficulty*
- *X had ended X contract and was returning to the UK as X position had become untenable. I was in a position which was difficult in that I could not agree to a decision which would limit my opportunity to be open and honest on a range of matters. There are matters which must be addressed and clarified*
- *People out with the Police are demanding answers to a range of questions*
- *How we do it would have been part of the plan but for this and our previous conversations*
- *Whatever we do we can be assured that it will provoke a widespread reaction*
- *Key partners had expectations and I strongly suggested that he meet with Bill OGLEY and seek his views'*

5.8.17 If it has been correctly reported, this attempt by DCO WARCUP to have CO POWER see sense failed. ACO WARCUP states '*In conversation Mr POWER informed me there probably "was" murders at Haut de la Garenne "we just can't prove it." I advised him in no uncertain terms that that was not what the evidence showed. He simply referred to deep seated corruption and cover up that exists in Jersey. He also advised me that we need to be mindful of what will keep "him" happy. I said, "who's him" to which he replied Lenny'.*

5.8.18 This Inquiry regards these attitudes as difficult to understand in light of all the evidence available at that time. It appears that CO POWER

was deliberately ignoring the facts and expressing a blind loyalty to the former DCO. If these assertions are correct, aligned to the intention of CO POWER to 'manage' the process by which the truth emerged, we conclude that CO POWER was in an increasingly intolerable position. Objectivity and a drive for factual accuracy were beginning to supplant the previous subjectivity and unchallenged misrepresentation of aspects of Operation Rectangle. The façade covering some of the 'facts' was becoming increasingly exposed.

- 5.8.19 Such was the concern about the attitude of CO POWER, that **X** was immediately engaged under a separate agreement to produce a report for Chief Executive Bill OGLEY, but with a single term of reference '*to make an assessment of the external communications activity pertaining to the Haut de la Garenne investigation*'. He completed the report in November 2008.
- 5.8.20 CO POWER comments on the meeting with **X** in his statement. He describes how he believed **X** had a 'sales pitch' in which **X** '*was talking up a crisis, then presenting X as the person who could resolve it, no doubt for a large fee*'. He further states '*I agreed that the public had been misled, but pointed out that we had not been responsible, and had in fact done much to put the record straight*'.
- 5.8.21 CO POWER cited misleading and sensationalist reports by the media as raising expectations and that work had been done to restore calm. CO POWER says he explained to **X** that '*I told X that most of the news X was referring to was already out in the public domain. All that appeared to remain was some adjustment in consequence of recent forensic results, and, in some cases, to draw attention to information which had been released previously but which might not have fully registered. I explained that the police were treading a difficult line in trying to hold together an alliance of opposing factions for the general good of the investigation. We had to maintain a working relationship with the Law Officers and the Jersey*

Establishment, while at the same time maintaining the confidence of the wider community, many of whom shared a common perception that there was widespread corruption and cover-ups in relation to child abuse and other issues. It was one thing to say the evidence did not support the view that there were murders. It was quite another to say we did not believe that there had been any murders. Beliefs are a personal matter, and it was probable that many people would believe that murders had occurred, but had accepted the assurances from the force that the evidence did not enable the relevant lines of enquiry to be taken further. This delicate balance had to be treated with care if unnecessary tensions were to be avoided. I repeated the course of action I had urged David WARCUP to support, which was to release incrementally those things which we needed to release, and where possible decline further comment on the basis that prosecutions were now pending. I agreed that the public had been misled, but pointed out that we had not been responsible, and had in fact done much to put the record straight. Misleading and sensationalist media reports had raised expectations and a great deal of hard work had already been done to restore calm and reality. The situation would not be improved by provoking the resurrection of the 'media circus' which had followed the behaviour of politicians, and other events associated with the early forensic work at HDLG. By the end of this conversation I felt that X and I were not going to agree and I wished X a pleasant journey'.

- 5.8.22 On 9 October 2008, DCO WARCUP met with Deputy Home Affairs Minister Andrew LEWIS who agreed that the media situation needed clarification and that matters should be dealt with once and for all 'Mr LEWIS was in agreement that the information must come into the media/public arena and it would be wrong to stop this. He provided reassurance and support and stated that actions and proposals were being considered perhaps involving the assistance of the Attorney General. Once again, I assumed to mediate an agreement to issue a full press statement. I confirmed that I had informed Mr POWER that

the Attorney General would assist in reaching a resolution on the matter'.

5.8.23 However, a subsequent meeting on 10 October 2008, between Chief Executive Bill OGLE Y and CO POWER appears to have caused the attitude of CO POWER to soften. Bill OGLE Y states *'therefore, my view was that the public deserved to have a full and thorough briefing on the state of the investigation and that anything less would be totally inappropriate. Mr POWER promised me that he would discuss this with the Attorney General in relation to the current prosecutions and that this discussion would have a bearing on his decision. It is my understanding that the discussion with the Attorney General never took place. Mr POWER never returned to me over the matter'.* This Inquiry can find no evidence that CO POWER discussed his proposals with the Attorney General.

5.8.24 ACO WARCUP refers in his statement to the discussion following the meeting of 10 October 2008 *'Mr POWER identified that some progress was being made but that he was concerned in relation to the way in which they approached matters. He explained that this related to the actions which were taken to remove Stuart SYVRET from his post when GP [Graham POWER] was 'thrown out' of a meeting for voicing concerns over the way in which it was being handled... He stated that he had a problem which I and Mick GRADWELL did not have, which was an allegiance to Lenny HARPER... He had supported him right through, had tried to keep him 'in check' and had to manage the fact that not many people on the Island supported him... He knew that certain aspects were not right but had to manage him, particularly [sic] the last six weeks'.*

5.8.25 CO POWER reportedly told DCO WARCUP *'that he felt a little more comfortable with having a look at something (in relation to previous releases) but needed to be sure that the Attorney General and Bill OGLE Y'S office were happy with it'.* DCO WARCUP agreed that he should *'get on with it'.*

- 5.8.26 During September and October 2008, DCO WARCUP had continued dialogue with key stakeholders and kept CO POWER fully appraised. However he remained concerned *‘that key issues were not being addressed, such as the fundamental failure to manage the enquiry effectively and that there remained a serious potential that unless matters are clarified for the benefit of the public I and others will be seen to be part of either a ‘continued cover up’ (press assertion) or that we have acted unprofessionally’.*
- 5.8.27 ACO WARCUP also comments that *‘at no time did the Chief Officer question the fact that I was talking to key stakeholders, nor indeed did he ask for any updates or briefings in relation to any of these meetings or briefings. Nevertheless, I continued to keep him appraised of progress and the fact that much of discussion with key stakeholders concerned our approach to the media and the stance which was being taken. To repeat myself, I regularly urged the Chief Officer to talk directly to other key stakeholders in order to gain an understanding of the importance of what we were trying to do’.* If ACO WARCUP’s evidence is correct, a pattern of disengagement by CO POWER is apparent, noting CO POWER’s previous approach to the management of DCO HARPER.
- 5.8.28 On 16 October 2008, DCO WARCUP met Attorney General William BAILHACHE and Bill OGLE Y and discussed the lack of progress in ‘securing’ an agreement with the Chief Officer in relation to the media release. The Attorney General highlighted the impending indictments at court in relation to the defendants charged. He identified that it would be difficult to depart from these dates. It was evident to all three of them that unless the correct facts were put into the public arena then there would be a strong argument in relation to abuse of process.
- 5.8.29 Five days later, on 21 October 2008, DCO WARCUP attended a meeting at the Attorney General’s office together with Detective Superintendent Michael GRADWELL, Principal Legal Adviser X, Crown Advocate Stephen BAKER, Attorney General

William BAILHACHE and Solicitor General Timothy LE COCQ. The purpose of the meeting was to discuss the future court proceedings of 24 October 2008 in relation to charged suspects in Operation Rectangle, and what statements could be made to the media and to the court. The 'profile' of attendees at this meeting suggested that serious consideration was being given to the abuse argument. CO POWER was absent.

- 5.8.30 ACO WARCUP states that the meeting disagreed with CO POWER's proposition relating to media handling. The meeting concluded that inaccuracies in previous reporting needed to be addressed and an assessment of the evidence in relation to the 'finds' indicated that there had been no homicides at Haut de la Garenne.
- 5.8.31 ACO WARCUP comments *'it should be noted that at this stage the position adopted by the Chief Officer, Mr POWER, had created a totally untenable position whereby the States of Jersey Police could not address the factual inaccuracies, which were clear from the evidence. The failure to address these factual inaccuracies with the public placed the prosecution in the invidious position of having a duty to respond to the court based on the evidence which they had presented before them, which severely contradicted the views of the States of Jersey Police'*.
- 5.8.32 By now, there had been numerous attempts to try to address the issue of correcting the information that was in the public arena. DCO WARCUP felt the integrity of the States of Jersey Police was at stake and future court trials were being put at risk. He comments in his statement that on 22 October 2008 he discussed the meeting of Tuesday 21 October 2008 with CO POWER *'I noted at the time that this was the first substantive discussion with Mr POWER since Friday 10 October 2008 concerning these matters. It was clear that any mention or reference to the issues concerning the enquiry failed to provoke any discussion or comment or indeed any questions. It had been quite apparent that Mr POWER was finding it difficult to talk*

about this, whilst in relation to other matters it is effectively business as usual’.

- 5.8.33 ACO WARCUP comments on a response from the Chief Officer *‘Mr POWER asked if the shutters would not just be ‘pulled down’ and commented to the effect that ‘we’ll see who’s got the stamina to see this through... If it does not provoke a press reaction on Friday the matter will probably go away’.*
- 5.8.34 This Inquiry suggests that, if true, this is not the professional response expected of a Chief Officer. DCO WARCUP reiterated his previous arguments and requested CO POWER discuss the matter with the Attorney General. This was refused and an agreement was made for DCO WARCUP to continue to prepare the media position.
- 5.8.35 The draft press briefing was provided to CO POWER prior to his period of annual leave taken between 6 and 17 November 2008. ACO WARCUP states he was aware of CO POWER’s intention to be out of the Island until 13 November 2008. CO POWER returned the document with some added comments written alongside the script. (Full details can be located within the Evidential Bundle accompanying this Report.) However, ACO WARCUP’s statement suggests that there remained a lack of willingness by CO POWER to accept the facts *‘next to paragraph 16 [previous reports in the media] is the following comment: ‘some of the original views of the evidential picture can no longer be sustained’ against the section marked the skull fragment a comment is appended: **LH’s report of 2/6/2008 gives details of alleged lab confirmation of it being ‘bone’ – so has this been addressed?’***
- 5.8.36 *‘In relation to a comment concerning ‘human remains’ being referred to namely ‘the teeth and bones nothing else, but this was misconstrued by the media’ the comment is appended ‘do we need this?’*
- 5.8.37 *At the section entitled shackles the comment is appended ‘**has no further relevance to the enquiry’.***

- 5.8.38 *At the section entitled 'Bath' the comments in relation to the location of the bath are appended the comment 'I have provided a historical account which relates to a communal bath at the house. Has this been taken into account?'*
- 5.8.39 Further comments on this page include *'we might wish to summarise this in some way 'while some of the forensic issues have been resolved there remain significant areas of uncertainty'.*
- 5.8.40 This Inquiry concludes that even at this stage, CO POWER disagreed with the intentions of the proposed media briefing and his reluctance to accept clear forensic opinion suggests that he remained opposed to correcting the sensationalist, misleading and inaccurate reports that were in the public arena.
- 5.8.41 DCO WARCUP continued with the preparations for the press conference. On 7 November 2009, he made contact with the Chief Officer via his mobile phone, whom he understood to be in the North of England. CO POWER was advised that the press conference was going to go ahead on Wednesday 12 November 2008 and that a final draft press statement had been prepared. DCO WARCUP asked him directly if he wanted to have any involvement in the press conference or other matters relating to the press conference, as he had indicated that he would be back in the Island on the Tuesday 11 November 2008. It is suggested by ACO WARCUP that CO POWER said that he did not.
- 5.8.42 ACO WARCUP states *'once again, this was a one sided conversation in that I was the one raising the issues and seeking comments. Despite having raised with the Chief Officer what were clearly fundamental issues, he did not challenge or question the action I proposed to take, nor do I believe that he appeared to recognise the potential consequences in relation to the likely media response'.*
- 5.8.43 On Friday 7 November 2008, DCO WARCUP met with Chief Executive Bill OGLEBY to discuss the proposed media conference briefing which

was planned for Wednesday 12 November 2008. During the meeting they discussed the fact that the Chief Officer would not be involved. Following this meeting, and in light of the report received from the Metropolitan Police Specialist Crime Review Group, DCO WARCUP prepared a letter dated 10 November 2008 to Bill OGLE. This letter has been referred to within the basic chronology at the beginning of this Report relating to the suspension of CO POWER. This Inquiry bears in mind the motives that could be attributed to DCO WARCUP in writing such a letter.

- 5.8.44 The press conference was held on 12 November 2008. The full transcript can be found in the attached Evidential Bundle.
- 5.8.45 In his later statement, CO POWER comments that it was evident that by various means DCO WARCUP had '*built up a broad alliance in favour of the major media conference event*' and that this included the Attorney General. CO POWER's last working day before leave was 5 November 2008, and he felt that the opportunity would be taken then to press ahead with the conference, regardless of his wishes, and was supported by the Attorney General and ministers. Being conscious of the fact that DCO WARCUP had been appointed to take strategic lead, CO POWER told DCO WARCUP that he would not stand in the way of the conference, but wanted a chance to influence the content.
- 5.8.46 CO POWER comments that, despite repeated requests, he did not receive the draft until 5 November 2008, a few hours prior to his leave. Whilst he considered it was poorly thought through, he was encouraged to note that it made the point that it had never been suggested by the States of Jersey Police that child murder took place at Haut de la Garenne and that the police were not behind the story regarding the 'shackles'. It also emphasised that the media had seen the 'cellars' and, therefore, by implication nobody had been misled regarding their size and nature. He states '*in the very limited time available to me I made some hurried notes in the margins of the draft*'.

- 5.8.47 CO POWER states *'In particular he said nothing of his intention to provide a briefing to Ministers and others the evening before the media conference. This was clearly a matter which affected my interests. At no time was it mentioned to me by David WARCUP or anyone else until after it had happened. Even after the passage of time, and the opportunity to reflect on whatever motives may have influenced the actions of Mr WARCUP and others. I can only regard the failure to inform the Chief Officer of the Force of the briefing to Ministers on the evening of 11th November 2008 as a deliberate act of deceit'* (the underlining is CO POWER's emphasis).
- 5.8.48 In contrast ACO WARCUP comments *'At every stage of development of the enquiry I kept the Chief Officer apprised and more importantly advised him that I was in discussions with a wide range of people including officers from the Law Officers' Department, the Attorney General, the Solicitor General, the Chief Ministers Department, the Communications Section, and Health and Social Services'*.
- 5.8.49 It is evident that there was recognition by politicians, senior police officers and media consultant X, that the content of the media releases within the public domain required correction. Following his appointment, DCO WARCUP was charged with rectifying the inaccurate impression that the public had of the enquiry. DCO WARCUP suggests that he almost immediately sought the support of CO POWER and attempted to involve him at every opportunity, but that every effort at seeking a resolution was not received well. Various hypotheses have been suggested in the preceding paragraphs as to the possible reasons for CO POWER's reluctance to engage with DCO WARCUP. Ultimately, it is not possible for this Inquiry to come to a clear conclusion, assuming what is reported by the witnesses is correct.
- 5.8.50 It is clear, however, that CO POWER declined from the outset to involve himself in the proposed press conference, regardless of his leave commitment. His stated intention was to restore 'balance' to the

reportage through a series of additional comments attached to future media releases. This Inquiry feels that CO POWER's approach would have lacked the clarity and transparency initiated by the conference of 12 November 2008. As stated, we feel CO POWER was reluctant to accept the forensic opinion that had cast doubt on the 'human' provenance of Exhibit JAR/6. Also, through loyalty to his former DCO, CO POWER seemed determined to avoid any criticism of the previous press releases made. Whatever his reasons, pressure from DCO WARCUP, politicians and legal authorities should have prompted him to accept some responsibility for the overall conduct of the enquiry. This Inquiry feels that if ever there was an opportunity for CO POWER to have shown personal responsibility and leadership, the planned conference was it. CO POWER did not take responsibility for leading his Force on the day when severe public reaction to the previously over inflated claims about Operation Rectangle was to be expected.

5.8.51 Sir Christopher PITCHERS (a judge sitting in the Royal Court of Jersey) delivered his judgement on the application for a stay of proceedings, in the case of [Suspects B, C and D] on 26 February 2009. He was critical of DCO HARPER's media policy, but nevertheless rejected this part of the application on a number of grounds, including the appointment of the new SIO and DCO who held a press conference in November 2008 to correct the errors. Sir Christopher said '*in my judgment this press conference went a long way to repair the damage that had been done by earlier press publicity*'. The other grounds for the rejection of the application included; the presence of a clear divide between the reporting of the torture dungeon and the general part of the inquiry which was into historic child sex abuse; the fact that none of the lurid stories connected any named individuals to what was being described; and the ability of the jury to understand the principle of fairness. Were it not for the actions of DCO WARCUP and Detective Superintendent GRADWELL, the few prosecutions that have resulted

from the investigation may never have come to trial. CO POWER failed to grasp the seriousness and potential consequences of not addressing misrepresentation in the media.

5.9 Conclusions

5.9.1 The supervisory failings by CO POWER with regard to the media undoubtedly affected the reputation and standing of the States of Jersey.

5.9.2 One consequence of the deficiencies in the overall media policy is the abuse of process arguments that accompanied the investigation. The Attorney General states *'I made a point of telling the Chief Officer that the conduct of the Deputy Chief had in my view seriously jeopardised the current prosecutions and worse still might have seriously jeopardised any prosecution arising out of the historic child abuse enquiry. The conduct was irresponsible and damaging to the criminal justice process in Jersey'*.

5.9.3 Advocate Stephen BAKER reflects that *'a very substantial amount of time has been spent in seeking to meet an abuse of process application made by the defence in the cases of [Suspect 'B'], [Suspect 'C'] and [Suspect 'D'].* That abuse of process application centred upon Mr HARPER's conduct of the investigation in particular his dealings with the press. The Judge has rejected the abuse of process application but this was an application we should never have had to meet. Mr HARPER's conduct in respect of the media caused very substantial difficulties in this case. There was a time when the type of reporting which occurred following the announcement to the press that the 'partial remains of a child' had been found may have resulted in a Judge refusing to allow the cases to be tried. The courts these days are much more robust on media reporting and tend to trust juries to reach verdicts on the evidence they hear in Court and not be influenced by the press'.

5.9.4 In response to the question of the abuse of process, CO POWER states *'I have been told that after hearing the evidence the Court ruled*

that no abuse of process had occurred. Accordingly I see no need to comment on this issue'. In the opinion of this Inquiry, this is a short sighted attitude at best. The additional expense and time incurred by the States of Jersey in preparing for and defending the abuse application and the uncertainty caused to the victims must be considered.

- 5.9.5 It must be pointed out that the 'transparent' approach by DCO HARPER and CO POWER did encourage victims to contact the States of Jersey Police. However, it is hard to escape the conclusion that this was as result of the quantity of media coverage rather than the accuracy of it. The flagrant misreporting fuelled by inaccuracy and speculation put prosecution cases in some jeopardy, and were it not for the actions of DCO WARCUP and Detective Superintendent GRADWELL in their November 2008 press conference, the chances of the Operation Rectangle prosecutions collapsing were real, as reported by the Judge at the abuse of process hearing.
- 5.9.6 This Inquiry commissioned ECHO Research, an independent company, to evaluate the reputation of the States of Jersey Police within the media, with particular reference to the investigation into the alleged child abuse at Haut de la Garenne. The analysis spanned the 15 months prior and 15 months post September 2007. Both UK and French citizens' opinions were examined. 'Blog' analysis was also considered.
- 5.9.7 Echo Research concludes that Operation Rectangle prompted a ten-fold increase in media coverage within the time parameters established. Overall, the police emerged in a favourable light from the Haut de la Garenne investigation *'positioned as competent and professional and determined to uncover possible concealment of abuse by the Jersey authorities. DCO Lenny HARPER was strongly associated with the investigation and the openness of the police towards the traditional media'*.

- 5.9.8 The reputation of Jersey, however, was *'overwhelmingly negative, dominated by a lack of competence/professionalism, and a culture of concealment/cover up'*.
- 5.9.9 These outcomes were inevitable whilst DCO HARPER was driving his own agenda, publicly criticising the States of Jersey for their secrecy and camouflage, whilst extolling the virtues of the States of Jersey Police with its 'transparent' approach.
- 5.9.10 Echo Research finds that the discrediting of the investigation by DCO WARCUP and Detective Superintendent GRADWELL led to highly critical headlines which dented the States of Jersey Police's media profile, although the overall rating remained positive. However, the damage done to the reputation of the Island of Jersey is obvious with a 16-fold increase in negative publicity over the examined time frame. One can conclude that the image of the States of Jersey has been damaged and that the press releases of the States of Jersey Police, did little to support the States in their efforts to assist the States of Jersey Police in their investigation.
- 5.9.11 This Inquiry is clear that CO POWER should have had firm control on the overall media management of Operation Rectangle. Advocate BAKER statement constrains an insightful narrative with which we concur *'Mr HARPER's relationship with the media was extraordinary. I would have expected a commanding officer particularly in a small force watching events unfold on the news channels to have taken a close personal involvement in media policy. By that I mean that he would have explored fully what the facts were, have challenged in depth those reporting to him and to have formed his own carefully reasoned opinion as to how the media should be handled'*. With the exception of the e-mail directive by CO POWER to DCO HARPER in respect of the suspects 'A' incident (see Paragraph 5.7.6), we can find no compelling evidence that CO POWER adopted such a position. Rather, we find that he abrogated his responsibility and neglected his duty in this critical area of his command responsibilities.

5.9.12 This Inquiry concludes that the initial failure of CO POWER to establish any strategic oversight of Operation Rectangle, deprived him of the means to detect the absence of an effective media strategy which precipitated hastily constructed and inaccurate press releases. These in turn provoked press coverage that was sensationalist, emotive and damaging and which went largely untouched. When challenged, CO POWER appears to have considered the media stance being taken by DCO HARPER. He was simply too removed from the activities of DCO HARPER to control him even though they met regularly. CO POWER's supervision was inadequate and characterised both by a lack of decisive action and the rigour of any form of documented approach. CO POWER fell far below the standard expected by the public.

6. The witness statement of CO POWER and lines of enquiry arising from it.

6.1 Preparing for a taped interview

6.1.1 In common with most discipline investigations, Operation Haven intended to conduct a taped interview of CO POWER in order to secure and test his account. Perfectly and properly following legal advice, CO POWER declined to be interviewed as is his right under Jersey Law and offered instead to provide a written statement. This is contained in the Evidential Bundle accompanying this Report.

6.1.2 In preparation for the intended interview, an interview plan was written which can also be found within the Evidential Bundle. This is a lengthy document which details all aspects of CO POWER's relevant experience and includes the 'headline' questions we intended to ask CO POWER under the terms of reference for Operation Haven. We suggest this document indicates the depth to which the interviewing officers wished to explore CO POWER's role in Operation Rectangle.

6.1.3 When it was apparent that CO POWER was not available for interview, the prospective interviewing officers from Operation Haven produced a separate document detailing a number of issues which they invited him to address when preparing his statement to the Inquiry. CO POWER agreed to do so.

6.1.4 Throughout this Report, regular reference to the content of CO POWER's statement has been made. The following topics were raised with CO POWER and which this Inquiry considers to be of relevance. They are commented upon in the following Sections of this Report.

- Succession plans – (see Supervision Section 3.2 of this Report).
- The standards the States of Jersey Police work to – (see Background and Context Section 1.8 of this Report).

- The involvement of the ACPO Homicide Working Group – (commented on throughout all Sections of this Report).
- The role of DCO HARPER as the SIO – (see Supervision Section 3.2 of this Report).
- Strategic parameters for Operation Rectangle – (see Supervision Section 3.7 of this Report).
- Meetings between the SIO and CO POWER – (see Supervision Section 3.8 of this Report).
- The relationship between the Office of the Attorney General and Operation Rectangle – (see Supervision section 3.9 of this Report)
- The search of Haut de la Garenne – (see Supervision Section 3.10 of this Report).
- Operation Rectangle as a critical incident/Gold Group/IAG – (see Critical Incident Section 4 of this Report).
- Financial management – further report to be submitted.
- Media Management – (see Media Section 5 of this Report).
- 'Putting the record straight' – (see Media Section 5.8 of this Report).

6.2 CO POWER's statement generating further lines of enquiry

6.2.1 Upon receipt of CO POWER's witness statement, a number of additional actions were generated to explore potential further lines of inquiry raised by CO POWER. The majority of matters raised by CO POWER were considered not to provide further opportunity to gather evidence relevant to the terms of reference. However, there are a number of issues raised that are worthy of comment and that do not appear in the aforementioned interview/statement structure.

6.2.2 Within his statement, CO POWER makes regular reference to Senator Wendy KINNARD in her role as Home Affairs Minister, and their interaction with respect to Operation Rectangle. CO POWER considers her views to be significant, especially in relation to the

performance of DCO HARPER. He comments '*she appeared at all times, to be strongly supportive*'. Operation Haven has made repeated attempts to obtain a statement from the ex-Home Affairs Minister, but to date, this has not been secured. Efforts continue to obtain Ms KINNARD's statement, although it does not seem likely it will be obtained prior to submission of this Report to the Deputy Chief Executive to the Council of Ministers. It will be forwarded as soon as it is available.

6.2.3 CO POWER has made regular reference to political interference and a possible 'cover up' within the establishment, including the States of Jersey Police. In his statement, he makes reference to an external enquiry conducted by South Yorkshire Police into the actions of members of the States of Jersey Police. Subsequent enquiries made with **OFFICER X** of South Yorkshire Police confirm that following the enquiry they found insufficient evidence to bring a criminal prosecution against any person, although there was a case to answer with respect to disciplinary matters. In addition, the South Yorkshire Police enquiry found no evidence of a 'cover up' or 'political interference'.

Operation Haven acknowledges that the South Yorkshire enquiry was not a comprehensive investigation into possible corruption in Jersey, but more simply an investigation into the corrupt activities of some States of Jersey Police members. However, the issue of corruption was raised by CO POWER who considered it to bring a '*new dimension*' to Operation Rectangle and was duly investigated. Operation Haven recognizes CO POWER's honestly held belief.

6.2.4 Frequent reference is also made throughout the statement to the actions and opinions of Senator Stuart SYVRET. CO POWER describes him as '*a person who victims and witnesses would trust*' and that his social and professional contacts and activities created an informal '*Gold Network*'. Operation Haven has made repeated efforts throughout the investigation to obtain a statement from Senator SYVRET, but this has been refused on each occasion. As a result of

the receipt of the statement of CO POWER, a further attempt was made. This was initially refused, though the Senator did intimate that he may wish to comment in the future, with the caveat that the subject matter to be commented on would be his decision. This tended to cover aspects of corruption, other political issues and the actions of senior figures. Whilst a statement from Senator SYVRET is not available, should Operation Haven obtain a written account from him, it will be forwarded when available.

6.2.5 A specific action that was raised as a result of the statement from CO POWER was to cross reference the events described within the body of his written statement with his pocket notebook entries following the indication provided by the Chief Officer in his statement that he had made a record of relevant events. A spreadsheet correlating pocket notebook entries to the statement can be found within the Evidential Bundle accompanying this Report. This Inquiry has concluded that although mention of events is made within CO POWER's pocket notebook, the details are scant and often of few words. The accuracy of the account of the events described within the statement cannot be readily supported by reference to the pocket notebooks alone. However, there are some more detailed entries from which inference can be drawn about the accuracy of the recollection described in the statement.

6.2.6 One example of the latter can be found within his statement when the Chief Officer refers to *'notebook 07/58 where they commence on pages 20 and 24'*. This refers to briefings made to key figures that CO POWER wished to *'put on a more formal footing'*. The notebook entry about those 'briefings' is enclosed within the Evidential Bundle accompanying this Report and in the spreadsheet. However, it is clear that not all events within CO POWER's statement have a corresponding entry in his pocket notebook. Therefore, this Inquiry concludes that sometimes the Chief Officer made notes and these may support the facts alluded to in his statement, whilst on other occasions there is no corresponding pocket notebook entry to support

the version of events he describes in his written statement. In others, the minimal notes he did make offers little to support the evidence within the statement.

6.2.7 Operation Haven has, where possible, followed-up lines of enquiry raised by CO POWER. In respect of the issue of 'timely warnings' being delivered to key figures, this Inquiry has subsequently pursued this with Chief Executive Bill OGLE. Chief Executive OGLE has commented in a further witness statement that *'I can say that I did not receive timely warnings from Graham POWER regarding significant media demands associated with the enquiry. I do recall him briefing me on the need to secure access to files relating to children who were in the care of the States and who were alleged victims. I recall him asking for my assistance in seeking cooperation for obtaining those files and I agreed to do so. But I was not put on notice that the enquiry was about to "take off" and when I learnt of the initial discovery of the fragment at HDLG, nothing had been done by Graham POWER to put me, or as far as I know, anyone in the States on notice'*. The contradiction between the two accounts is obvious; however verification of either is not possible until enquiries can be made with Wendy KINNARD who was the only other person at the meeting. The value of ascertaining the 'truth' in this matter may not be great. Briefing the key figures in the States of Jersey of the impending increase in profile of Operation Rectangle demonstrates a prescience and supervisory level expected of a Chief Officer. Nevertheless, this Inquiry can see some value in pursuing this action and it will be completed, if possible.

6.2.8 Throughout CO POWER's statement, he directs criticism at ACO WARCUP on a number of issues. He states *'One of Mr WARCUP's problems is that he would not listen to my advice'* and *'I tried to encourage Mr Warcup to concentrate on moving matters forward rather than focusing on the past'*. In contrast, when this view was put to ACO WARCUP, he states in a further witness statement *'Mr. Power asserts in his statement that on a number of occasions he*

was positive helpful and supportive to me offering what he considered to be support and perhaps painting a picture of an individual who is engaged and interested in what was happening. The relationship was nothing more than functional; indeed on his part it was often patronising and frequently focused on very low level matters. Whenever more serious matters required discussion they were simply passed for my attention without much discussion.

TEXT REDACTED

6.2.9 These narratives indicate the difference in positions between CO POWER and ACO WARCUP and will be relevant to those charged with assessing their relative credibility as witnesses. CO POWER states in relation to a press conference proposed by DCO WARCUP, *'At some stage during this period David Warcup floated the idea of a press conference to 'put the record straight' regarding the enquiry. I definitely saw this as a bad idea'*. At variance with this are the comments of ACO WARCUP who states on numerous occasions that *'it was essential to put the public record straight'*. Opposing views of this nature abound throughout both statements.

6.2.10 This Inquiry has commented on the possible motives that ACO WARCUP may have had in raising concerns over the management of Operation Rectangle (see the Supervision Section 3.3.10 of this Report) and has reported our conclusions.

7. List of conclusions

7.1 Supervision

- **Conclusion 1**

7.1.1 CO POWER's appointment of DCO HARPER as SIO was inappropriate when Operation Rectangle was solely an historical child abuse enquiry. This became a failure in performance of his duty to appoint an SIO of adequate qualification and experience after 23 February 2008 when Operation Rectangle became a homicide investigation.

- **Conclusion 2**

7.1.2 CO POWER failed in the performance of his duty to ensure adequate terms of reference were created for Operation Rectangle which were agreed with and adhered to by the SIO.

- **Conclusion 3**

7.1.3 CO POWER failed in the performance of his duty to maintain adequate records of his supervision of DCO HARPER during Operation Rectangle.

- **Conclusion 4**

7.1.4 CO POWER made inappropriate use of the Force e-mail system.

- **Conclusion 5**

7.1.5 CO POWER failed in the performance of his duty to ensure that DCO HARPER maintained an effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.

- **Conclusion 6**

7.1.6 CO POWER failed in the performance of his duty to prepare for the impact that the searches at Haut de la Garenne would have on public opinion.

- **Conclusion 7**

7.1.7 The operational performance of the States of Jersey Police was not demonstrably adversely affected during Operation Rectangle.

7.2 Critical Incident

- Conclusion 8

7.2.1 CO POWER failed in the performance of his duty to ensure a Gold Group was created following the declaration of the investigation as a critical incident on 13 December 2007 and also following the 'find' at Haut de la Garenne on 23 February 2008.

- Conclusion 9

7.2.2 Whilst this Inquiry accepts that a Community Impact Assessment was prepared commendably by junior officers, CO POWER failed in the performance of his duty to ensure that a CIA appropriate for Operation Rectangle was properly implemented and pursued by the States of Jersey Police.

- Conclusion 10

7.2.3 CO POWER failed in the performance of his duty to establish a relevant, supported IAG with clear terms of reference.

- Conclusion 11

7.2.4 CO POWER should not be held to account for failing to take timely and effective action to resolve concerns raised by the IAG. The evidence suggest he did take action.

- Conclusion 12

7.2.5 CO POWER failed in the performance of his duty to ensure that Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.

- Conclusion 13

7.2.6 CO POWER should not be criticised for failing to commission a major crime review of Operation Rectangle, but should receive advice and appropriate training.

7.3 MEDIA

- **Conclusion 14**

7.3.1 CO POWER neglected his duty to establish or provide any formal strategic oversight of the States of Jersey Police’s media strategy in respect of Operation Rectangle.

- **Conclusion 15**

7.3.2 CO POWER neglected his duty to ensure that a documented and updated media strategy existed between November 2007 and February 2008 during the Historic Child Abuse Enquiry, Operation Rectangle.

- **Conclusion 16**

7.3.3 CO POWER neglected his duty to ensure an appropriate media strategy was in place and being adhered to following the ‘find’ on 23 February 2008. This strategy should have been regularly reviewed and was not.

- **Conclusion 17**

7.3.4 CO POWER neglected his duty to supervise the media releases made by the States of Jersey Police to ensure their accuracy and balance or to effectively challenge misrepresentation by the media.

- **Conclusion 18a**

7.3.5 CO POWER neglected his duty to provide strategic oversight of States of Jersey Police media policy following receipt of confirmation that Exhibit JAR/6 was not human bone, as previously portrayed by the States of Jersey Police within its media releases.

- **Conclusion 18b**

7.3.6 CO POWER neglected his duty to correct the content of misleading press releases made by States of Jersey Police following receipt of forensic opinion about the nature of Exhibit JAR/6.

- **Conclusion 18c**

7.3.7 CO POWER neglected his duty to supervise DCO HARPER in relation to his media releases following receipt of forensic opinion about the nature of Exhibit JAR/6.

- **Conclusion 19**

7.3.8 CO POWER created and/or permitted an environment where lack of supervision allowed DCO HARPER to proceed without regard to the effect of his actions on Operation Rectangle. Nevertheless, this Inquiry accepts that CO POWER could not have prevented the media release regarding suspects 'A' on 24 June 2008.

8. List of recommendations

- Recommendation 1

8.1 The States of Jersey Police considers secondments of trained SIO's to UK forces to ensure that they maintain and enhance their skills level, with a view to obtaining Professionalising Investigations Programme 3 accreditation.

- Recommendation 2

8.2 The States of Jersey Police ensures that all operations are included within the National Intelligence Model process as outlined by the 'Practice Advice on Tasking and Co-ordinating 2006'.

- Recommendation 3

8.3 The States of Jersey Police reviews the design of policy books to provide for examination by supervisors and should implement policy requiring such supervision to occur.

- Recommendation 4

8.4 The States of Jersey Police gives serious consideration to adopting the ACPO/NPIA Practice Advice on Critical Incident Management 2007 as Force policy, provide training and ensure the policy is well understood at all levels of the Force.

- Recommendation 5

8.5 The States of Jersey Police reviews policy and procedure in respect of the completion of policy books, giving particular consideration as to when they should be used and what should be recorded in them, in line with NPIA Guidance. Training should be given to current and prospective SIO's.

- Recommendation 6

8.6 The States of Jersey Police reviews policies and procedures in respect of Community Impact Assessments to ensure policy and procedure are fit for purpose.

- Recommendation 7

8.7 The States of Jersey Police takes the opportunity to establish an IAG in Jersey, based on the UK model and guidance, so that the IAG is able to

participate productively in future incidents as they arise and that the States of Jersey Police develop policy and procedure which properly trains and supports IAG members.

- **Recommendation 8**

8.8 TEXT REDACTED – this relates to UK Police body

9. Legal advice in respect of suggested charges

9.1 Suggested charge

9.1.2 As Chief Officer of Police for the States of Jersey Police (“SoJP”) you failed, between about September 2007 and November 2008 effectively and efficiently to manage and supervise the Operation Rectangle investigation (“the investigation”) into alleged child abuse at Haut de la Garenne (“HDLG”) and as a consequence thereof you

- i. failed to perform your duties to a satisfactory standard;
- ii. behaved in a manner likely to bring discredit to the States of Jersey Police.

9.2 Particulars

9.2.1 1.a) The HDLG investigation was a critical incident that required strategic management by the Chief Officer of Police, for the following reasons:

9.2.2 b) It was the biggest policing operation in Jersey in living memory.

9.2.3 c) All allegations of institutional child abuse carry a legitimate and intense public interest and necessarily require effective and efficient management.

9.2.4 d) In a small and island community like the States of Jersey (SoJ), such an investigation requires sensitive and intelligent planning and management.

9.2.5 e) You knew or ought reasonably to have known of the inevitable political sensitivity of such an investigation because of its potentially negative implications for the reputation of the States of Jersey Police, the SoJ and the people of Jersey.

- 9.2.6 2. Despite the propositions in (1) above, you failed to appreciate the significance of the investigation from the outset and you failed strategically to manage the investigation, adequately or at all.
- 9.2.7 3. You failed to establish an appropriate strategic steering group for the investigation (whether “Gold Group” or other appropriate local variant) which group ought to have set appropriate strategic parameters, including strategies for:
- 9.2.8 a) Ensuring the investigation was conducted to a high standard;
- 9.2.9 b) Media management;
- 9.2.10 c) Community impact and confidence.
- 9.2.11 4. In relation to the investigation of Operation Rectangle you failed as follows:
- 9.2.12 a) To appoint a suitably qualified Senior Investigating Officer.
- 9.2.13 b) Properly or at all to supervise the SIO, DCO Lenny HARPER.
- 9.2.14 c) To set or review written terms of reference or any other appropriate parameters for the investigation to cover issues such as forensic strategy, media strategy, investigative strategy and witness management
- 9.2.15 d) To ensure terms of reference were agreed and adhered to by the SIO, DCO HARPER.
- 9.2.16 e) To keep a policy file on the case; alternatively you did not intrusively monitor that kept by HARPER and failed to maintain adequate records of your own supervision of him.
- 9.2.17 f) To ensure proper and effective liaison with the Attorney General’s team of lawyers.
- 9.2.18 g) To ensure the investigation was managed as a multi agency investigation in accordance with accepted guidance

- 9.2.19 5. In relation to media management you failed as follows:
- 9.2.20 a) To institute or document or regularly review any or any proper strategy for protecting:
- 9.2.21 i. the investigation from prejudicial reporting or inappropriate journalistic activity;
- 9.2.22 ii. potential witnesses and complainants from media intrusion;
- 9.2.23 iii. the reputation of the SoJP and SoJ from inappropriate media coverage;
- 9.2.24 b) By permitting excessive disclosures to the media you ran the dual risks of prompting abuse of process arguments by prospective criminal defendants and undermining the evidential weight to be attached to complainants' allegations.
- 9.2.25 c) To ensure that press statements from Operation Rectangle distinguished between allegation and proven fact, thereby causing or permitting sensationalist and inaccurate media coverage.
- 9.2.26 d) To monitor and thus exercise any or any proper control over DCO Harper's briefings to the media, thereby causing or permitting the media to publish sensationalist and inaccurate stories in relation to, *inter alia*, "*the partial remains of child*", "*a skull fragment*", "*cellars*", "*shackles*", and "*blood in a bath*".
- 9.2.27 e) To attempt to correct in a timely manner false or sensationalist media reporting, including in relation to the so-called "child's skull" which was not in fact human remains at all, as you knew or ought to have known by June 2008.
- 9.2.28 f) To ensure that an appropriate media strategy was in place and being adhered to following the 'find' on 23 February 2008.
- 9.2.29 g) To provide strategic oversight of the SoJP media policy, following receipt of forensic opinion that Exhibit JAR/6 was not human bone, as previously portrayed.

- 9.2.30 h) To ensure that earlier SOJP press releases were corrected following receipt of forensic opinion that Exhibit JAR/6 was not human bone.
- 9.2.31 i) To supervise the SIO, DCO HARPER in relation the content of his media releases following receipt of forensic opinion that Exhibit JAR/6 was not human bone.
- 9.2.32 6. In relation to community impact and confidence you failed as follows:
- 9.2.33 a) To ensure that the community impact assessment or risk assessment of likely community reaction was properly implemented, performed in a timely fashion and periodically reviewed by you. This failure contributed significantly to the undermining of public confidence in the investigation.
- 9.2.34 b) To appoint an Independent Advisory Group ('IAG'), until advised by the ACPO Homicide Working Group to do so.
- 9.2.35 c) To ensure that the IAG was properly constituted, briefed, given appropriate Terms of Reference, advised, guided and utilised by Operation Rectangle.
- 9.2.36 d) To ensure that the investigation was made part of a multi-agency approach thereby maximising public confidence in the investigation.
- 9.2.37 7. By reason of the matters aforesaid you presided over but did not manage, supervise or control an investigation which ran out of control, and damaged the reputation of the SoJ.

9.3 Additional suggested charge

- 9.3.38 8. As Chief Officer of Police for the States of Jersey Police ("SoJP") during the currency of the high profile Operation Rectangle you sent emails on 23rd February and 29th February 2008 which emails you knew or ought reasonably to have known were offensive and/or likely to bring discredit upon the SoJP.

9.3 Particulars

- 9.3.1 1. At 22.12 hours on 23rd February 2008 you sent an email to **OFFICER X** , **OFFICER X** and **X** which was, particularly having regard to its political context, inappropriate, sarcastic and unprofessional.
- 9.3.2 2. At 1511 hours on 29th February 2009 you sent an email to "W" which was deeply inappropriate in that it contained the following "joke": *"What is the difference between a Jersey royal and a Jersey orphan? Answer: A Jersey Royal gets to be dug up after three months"*.

	Conclusions (Brief Summary)	Relevant paragraph within draft Working Charges
Conclusion 1	Failure in performance of duty to appoint an SIO of adequate qualification and experience.	See paragraph 4 (a)
Conclusion 2	Failure in performance to ensure adequate terms of reference were created and agreed with and adhered to by the SIO.	See paragraph 4 (c) in relation to setting or reviewing terms of reference See paragraph 4 (d) ensuring that SIO agreed and adhered to Operation Rectangle's terms of reference
Conclusion 3	Performance of duty to maintain adequate records of this supervision of the SIO.	See paragraphs 4 (b) & 4 (e)
Conclusion 4	Failure in performance inappropriate use of the Force email system.	See paragraph 9.3
Conclusion 5	Failure in the performance of duty to ensure SIO maintained effective working relationship between the prosecution legal team and the police investigation team for Operation Rectangle.	See paragraph 4 (f)
Conclusion 6	Failure in performance to prepare for the impact the searches at Haut de la Garenne would have on public opinion.	See paragraph 7
Conclusion 7	No finding of failure in performance.	Not reflected in the draft working charge
Conclusion 8	Failure in performance to ensure a Gold Group was created either post 13 December	See paragraph 3

	Conclusions (Brief Summary)	Relevant paragraph within draft Working Charges
	2007 and/or 23 February 2008.	
Conclusion 9	Failure in performance to ensure that a CIA appropriate for Operation Rectangle was properly and pursued by States of Jersey and reviewed periodically by you.	See paragraph 6 (a)
Conclusion 10	Failure in performance to establish a relevant, supportive IAG with clear terms of reference.	See paragraph 6
Conclusion 11	No finding of failure in performance to support IAG post notification of concerns to GP	Not reflected in the draft working charge
Conclusion 12	Failure in performance to ensure the Operation Rectangle was managed as a multi-agency investigation in accordance with accepted guidance.	See paragraph 4 (g)
Conclusion 13	No charge. Only advice and appropriate training.	Not reflected in the draft Working Charge
Conclusion 14	Neglect of duty to provide any formal strategic oversight of the States of Jersey Police media strategy.	See paragraph 5
Conclusion 15	Neglect of duty to ensure that a documented and updated media strategy existed between November 2007-February 2008.	See paragraph 5(a)
Conclusion 16	Neglect of duty to ensure an appropriate media strategy was in place and being adhered to following 23 February 2008.	See paragraph 5(f)
Conclusion 17	Neglect of duty to supervise media releases by States of Jersey Police to ensure accuracy and balance and to challenge misrepresentation by the media.	See paragraphs 5(e) and (f)
Conclusion 18	Neglect of the duty to (i) provide strategic oversight of media policy post discovery that Exhibit JAR/6 was not human bone; (ii) failing to correct misleading press releases made by States of Jersey Police post that forensic opinion about the nature of Exhibit JAR/6; (iii) failure to supervise SIO in relation to his media releases post his discovery as to the nature of Exhibit JAR/6.	See paragraphs 5(g-i)
Conclusion 19	No charge.	Not reflected in the draft Working Charge

Appendix 1 – Chronology of Operation Rectangle from 1 September 2007 to 12 November 2008

September 2007	Commencement of Operation Rectangle
1 October 2007	Within DCO HARPER's finance policy file Decision 1 sets out the need to monitor all expenditure and only spend what is operationally necessary.
1 October 2007	Within the main lines of enquiry policy file, OFFICER X records Decision 1 as ' <i>Operation Rectangle is a single agency led investigation into historical child sexual abuse involving a number of institutions in Jersey</i> '.
8 October 2007	Within the media strategy policy file under Decision 1, OFFICER X records that a media strategy has been prepared.
19 November 2007	Within the media strategy policy file Decision 3, OFFICER X records the resolution to appoint X to co-ordinate the media for States of Jersey Police.
22 November 2007	The first public statement regarding the investigation is released. This statement sets the investigation into its historic context and states that the police have already made contact with witnesses and victims.
28 November 2007	A statement is released by the States of Jersey Police announcing that they have made contact with around 60 victims and witnesses.
1 December 2007	Within DCO HARPER's finance policy file he records under Decision 3 that all expenditure up to

£1,000 is to be authorised by **OFFICER X**, and anything over that amount should be authorised by him.

13 December 2007 Within the main lines of enquiry policy file, **OFFICER X** states in Decision 6 that the investigation can be categorised as '*Category A+ and a critical incident*'.

28 December 2007 Within the main lines of enquiry policy file, DCO HARPER records Decision 8 as '*not to produce a community impact assessment or establish a gold group in terms of the manual*'. In explaining the reasoning for this decision, DCO HARPER records '*although technically a critical incident and Cat A investigation, this is solely because of the context of the island and the size of the force*'.

Within the main lines of enquiry policy file, DCO HARPER records Decision 9 '*not to instigate external review of investigation unless it becomes a murder/homicide inquiry*'.

31 December 2007 By the end of 2007, the expenditure for Operation Rectangle was £44,076.

10 January 2008 **X** from LGC Forensics sends a report to the States of Jersey Police detailing a search strategy, highlighting areas where the search should be prioritised based on a number of considerations including topography, vegetation and geology – all areas indicated were outside the building.

12 January 2008 Within the main lines of enquiry policy file, DCO HARPER records Decision 11 as '*to discontinue lines of enquiry relating to bones by the*

kitchen of HDLG under concrete. However, efforts to continue to clarify claims of human remains in grounds’.

- 18 January 2008 In a document from CO POWER to Steven AUSTIN-VAUTIER, he [POWER] states that he accepts that the Force should follow good practice in financial management.
- 5 February 2008 An initial planning meeting takes place at LGC Forensics. The search strategy is discussed and agreed upon, with a start date of 19 February 2008 being confirmed.
- 11 February 2008 In an e-mail from DCO HARPER to X, he [HARPER] declares his decision not to search the interior of the home.
- 12 February 2008 In an e-mail from DCO HARPER to X, he declares there is no intelligence or evidence to suggest anything untoward took place in any of the rooms at Haut de la Garenne.
- 19 February 2008 Work commences in the grounds of Haut de la Garenne.
- 20 February 2008 Information is received that bones found in 2003 were associated with cloth and a shoe. Concern is subsequently raised about the identification made at the time by local pathologists.
- The decision is made to deploy the Enhanced Victim Recovery Dog and also utilise ground penetrating radar.
- 21 February 2008 Following ground penetrating radar assessment of the stairwell area, excavation of the concrete floor commences – 3 areas are targeted initially.

23 February 2008

0910hrs – Item found by anthropologist
X and identified on scene as being
part of a child's skull. This item is then exhibited
as JAR/6.

0930hrs – Exhibit JAR/6 is presented to the
Enhanced Victim Recovery Dog which gave an
indication suggestive of human remains.

1025hrs – Within the media strategy policy file,
DCO HARPER records Decision 8 as '*to release
limited information revealing find of possible human
remains*'.

1045hrs – CO POWER receives a call from
DCO HARPER telling him about the first 'find'.

1045hrs – A freelance journalist is found in the back
field of Haut de la Garenne.

1045hrs – DCO HARPER makes the decision to
release information to the press about the 'find'.

1101hrs – CO POWER e-mails Wendy KINNARD,
Andrew LEWIS, Bill OGLE, Frank WALKER (cc
DCO HARPER) regarding abuse enquiry publicity,
stating '*all, this is to let you know that we have had
a well informed media enquiry from the UK in
relation to the above. In consultation with the
DCO and in the interests of fair relations with the
local media an announcement is likely to be made
soon. The announcement will confirm that acting on
the basis of information gained during the enquiry
the investigation team, assisted by experts from the
UK, have been undertaking a forensic examination
of the former home at HDLG. This search has
revealed what appear to be the human remains of a
child. The search is continuing*'.

1145hrs – DCO HARPER writes out what he wants the press release to contain. This is copied verbatim by **OFFICER X** and reads as follows *'on Tuesday 19 February as a result of information received during the Historic Abuse Enquiry, States of Jersey Police commenced an exploratory search of the former care home at Haut de la Garenne... At 09:30 hrs today, what appears to be potential remains of a child have been recovered. The investigation continues. A press conference is to be arranged in due course and you will receive notification accordingly'*.

1245hrs – CO POWER arrives on site at Haut de la Garenne.

1305hrs – **OFFICER X** begins to circulate press release to local media.

1336hrs – CO POWER leaves Haut de la Garenne.

1400hrs – A press conference takes place on site, during which Exhibit JAR/6 is disclosed as being the potential remains of a child.

1500hrs – Within the media strategy policy file DCO HARPER records Decision 9, to update the media on a daily basis, either by release through Press Officer or by briefing.

1605hrs – **X** receives a phone call from DCO HARPER at Haut de la Garenne asking for mentoring advice

26 February 2008

A statement is made by the Chief Minister to the States, Terry LE-SUEUR committing to provide necessary and efficient resources to the investigation. **ERROR- This should be FRANK WALKER**

OFFICER X is asked by **OFFICER X** to start preparing a CIA in relation to Operation Rectangle. **OFFICER X** suggests that **OFFICER X** look at the Murder Investigation Manual, which contains a section on CIAs.

The States of Jersey Police release a press statement placing specific emphasis on the fact that all that has been recovered so far are the partial remains of what is believed to have been a child.

Within the finance strategy policy file, DCO HARPER records Decision 8 as *'all expenditure incurred forthwith to be done so in accordance with attached document'*.

27 February 2008

The States of Jersey Police issue a press release stating *'we can confirm that this morning, we have gained partial access to the cellar'*.

In response to an earlier e-mail from **OFFICER X** regarding necessity for a CIA, DCO HARPER replies *'not at this time'*.

28 February 2008

X advises DCO HARPER on words to use when speaking to the media.

The Council of Ministers make a further statement declaring that they will do everything necessary to support and work with the investigating team.

29 February 2008

CO POWER and **X** sign terms of reference in regard the ACPO Homicide Working Group mentoring/advice team to support Operation Rectangle.

1 March 2008

The media strategy for Operation Rectangle is created.

3 March 2008

Bill OGLEBY signs a communications protocol in respect of the Haut de la Garenne child abuse enquiry.

A media briefing held at Haut de la Garenne. It is at this briefing that the terminology 'skull fragment' is used as opposed to '*partial remains of a child*' as previously favoured.

The States of Jersey Police issue a press release stating '*bones recovered from the south side field have been confirmed as animal bones but a small number are yet to be confirmed as such*'.

4 March 2008

CO POWER signs a communications protocol in respect of the Haut de la Garenne child abuse enquiry.

The ACPO Homicide Working Group team deliver their first report to the States of Jersey Police.

5 March 2008

A press release by the States of Jersey Police discloses that DCO HARPER is to become full time SIO and so relinquish the other duties of DCO.

6 March 2008

The Council of Ministers re-affirms its full and unqualified support for the police inquiry and its resolve to ensure that police receive all resources necessary to complete a full and thorough investigation.

Exhibit JAR/6 is collected by X for transportation to Oxford.

7 March 2008

A States of Jersey Police press release details the positive presumptive testing for 'blood' in the 'cellar' and the presence of a 'bath'.

9 March 2008

A rally takes place in St Helier highlighting public concerns about the way claims of abuse at Haut de

la Garenne have been handled by the Jersey authorities

11 March 2008

A second piece of possible skull is found in trench 003, later exhibited as SJL/1.

In an e-mail from CO POWER to Wendy KINNARD; cc Bill OGLEY, regarding Exhibit SJL/1, CO POWER states *'you will be aware that our current media line on the search and finds at HDLG is that we continue to recover bone fragments many of which appear to be animal and some which require further testing. We will seek to hold to this line for the time being. However, you may wish to be aware that we have a strong, as yet unconfirmed, scientific opinion that one item is very likely to be a further part of a child's skull which may or may not be related to the first find. The AG is being made aware. At present we are holding our earlier line in the hope that this will avoid a return of the "circus". However, if asked the right questions then we will feel bound to give truthful answers. Although that has not happened yet. You may wish to think about 'lines'. It might be that the best thing to say is that you are aware of recent developments and that it is appropriate that the enquiry continues to take its course'*.

12 March 2008

OFFICER X is tasked by DCO HARPER to prepare a CIA

1435hrs – Call from **X**. From photos sent to **X** and **X**, they believe that SJL/1 is human skull. However, this is recognised as being a preliminary identification only.

- 13 March 2008 Inaugural meeting of the Independent Advisory Group, which is observed by **X** and **OFFICER X** from ACPO Homicide Working Group.
The media strategy is updated.
- 14 March 2008 1710hrs – In an update from LGC Forensics, it is stated that nitrogen levels in the skull fragment indicate insufficient collagen in the bone to date.
1805hrs – A further update is received from LGC Forensics, stating a very low likelihood of extracting collagen from sample. This update further comments that the bone is poorly preserved and therefore likely to be old or in a bad location for preservation.
- 17 March 2008 In e-mail correspondence between **OFFICER X** and **OFFICER X**, it is agreed that the ACPO format for CIA should be used.
- 18 March 2008 Draft CIA Version 1 submitted via e-mail to **OFFICER X**
- 19 March 2008 CIA Version 2 completed – this was forwarded via **OFFICER X** to DCO HARPER.
1232hrs – An e-mail is sent from **X** to DCO HARPER which details the history of IAG formation and also explains that *‘they are not a watchdog and they are only scrutinising the investigation from a community perspective... They are there purely to advise Gold, the SIO and the police’*.
- 20 March 2008 1600hrs – **X** is on site at Haut de la Garenne and after examination of SJL/1 **X** confirms that it is not skull.

Call from LGC Forensics. The collagen level in Exhibit JAR/6 is better than originally thought and therefore they have enough material to date.

25 March 2008

X , **X** and **X** go to Jersey to consider the progress since the first ACPO Homicide Working Group report.

26 March 2008

Second ACPO Homicide Working Group report is delivered to CO POWER and DCO HARPER.

The first recorded private meeting of the IAG takes place, convened as the members wished to discuss the issues themselves and establish what they wished to ask.

X , **X** and **X** attend an IAG meeting.

A report written by **X** projects the cost for Operation Rectangle up to 30 June 2008 as £1.2 million. This report was e-mailed to the Senior Management Team for Police, including CO POWER.

27 March 2008

OFFICER X advises **OFFICER X** that the CIA is now a standing item on FMB agenda.

29 March 2008

A report on carbon dating received from LGC Forensics explains that despite low nitrogen level they would continued with pre-treatment. It further covers that the sample [Exhibit JAR/6] behaved oddly and that the material is either not collagen or very badly degraded.

29 March 2008

Within the persons of interest policy file, DCO HARPER records Decision 8 as not to adopt a scoring matrix.

Appendix 1

Highly Confidential – Personal Information

31 March 2008 0920hrs – Dr X from the LGC Forensics tells the States of Jersey Police that X believes Exhibit JAR/6 is not bone. This view is also shared by Dr X of the British Museum.

0930hrs – X from the LGC Forensics re-iterates X / X thoughts. However, X can be seen as still commenting that it could be badly preserved.

1 April 2008 Within the media strategy policy file DCO HARPER records under Decision 11 the need to issue regular updates to the media through the Press Officer.

7 April 2008 X returns to Haut de la Garenne and is briefed on the results from the LGC Forensics. Following this briefing X is still confident about X initial identification.

8 April 2008 X concludes that Exhibit JAR/6 belongs to a Victorian context.

X undertakes a re-examination of Exhibit JAR/6 and confirms to X that X still thinks it looks like human bone.

1015hrs – The States of Jersey Police issue a press release referring to Exhibit JAR/6 as a skull fragment and also other bone fragments including some which have been charred.

1413hrs – X e-mails the States of Jersey Police asking whether they have a different opinion than what X had told them.

9 April 2008 X undertakes a second re-examination of Exhibit JAR/6 and informs X and DCO HARPER that X is no longer confident that it [Exhibit JAR/6] is human

bone. Although a number of options are discussed regarding further testing, DCO HARPER decides it is not necessary to conduct any more tests as Exhibit JAR/6 falls outside the parameters of the enquiry.

18 April 2008

The States of Jersey Police issue a press release stating *'To clear some confusion which seems to exist, the SoJP would like to clarify the following facts on the fragment of skull found at Haut de la Garenne. We were not able to date the fragment. Therefore we cannot say how old it is or indeed where and how, the person died... We cannot say if the actual death occurred before it was moved to where we found it. It follows therefore that the bone could date from the period just before 1940, the Victorian era, or indeed even earlier if it was moved here from a previous location. In the light of that, it is unlikely that we will instigate a formal homicide enquiry in relation to this bone alone... However, the site of the home must remain the scene of a possible homicide until such time as all of the areas of interest which have been flagged up to us have been excavated and cleared'*.

X records in X Major Incident Management log *'From X – milk tooth (canine, human) found in sievings from cellar 3'*.

DCO HARPER e-mails CO POWER giving him an update on finds from the cellars, stating *'Graham: Just an update on the latest finds from the Cellars. Two rocks with bloodstains found by dog. Bandage with bloodstains found by dog. Child's milk tooth. Fragment of what could be skull bone, but X not certain. Dog has reacted to it but we will send it to*

Scotland to have it identified quickly’.

21 April 2008

DCO HARPER phones X voicing his concerns that the Attorney General wanted to embed a lawyer in the Major Incident Room.

22 April 2008

A States of Jersey Police press release announced that ‘forensic archaeologists searched an area of the cellar rooms three and four and have discovered some more bone fragments and two ‘milk teeth’ from a child or children... the teeth could have come from the same child although further tests will be necessary to try and ascertain if that is the case, and how the teeth might have come to be there’.

29 April 2008

Sean POWER asked Wendy KINNARD in The States if the remains found were of a child - she replied stating *‘the statement made about the fragment of skull on 23rd February 2008 was accurate. It was and continues to be the partial remains of a child. The police have always maintained that they did not know when, where or how the person died. The fact that it was not proved possible to date the fragment of skull does not change the fact of what it was, nor does it remove the possibility that he or she died of foul play... it will remain premature to judge the content of police media statements until the investigation is concluded’* – further elaborating *‘I am reassured that the correct approach is being adopted... The fact remains that the piece of skull was found in suspicious circumstances in a building where a number of other objects have been found to corroborate extremely serious allegations’.*

1 May 2008

During correspondence between Steven AUSTIN-VAUTIER and CO POWER, CO POWER highlights

the fact that the police were incurring non-budgeted expenditure and would continue to do so until the proposition was passed by the States to provide additional funding.

In an e-mail to **OFFICER X**

and others, CO POWER states '*my understanding of the rules is that we should not commit to non budgeted expenditure until the proposition is passed by the States*'.

X completes **X** report in respect of Exhibit JAR/6. In it **X** states that the sample was not bone and not human, appearing instead to be more like part of a large seed casing or part of something like a small piece of coconut.

5 May 2008

X records in **X** Major Incident Management log that DCO HARPER tells **X** of a second site of potential interest, that of Victoria Towers/Bunkers.

0925hrs – In an e-mail from CO POWER to James PERCHARD, he [POWER] states there is no scientific dispute regarding the fact that Exhibit JAR/6 is human.

1353hrs – DCO HARPER e-mails CO POWER regarding intelligence on the bunker at Victoria Tower.

6 May 2008

CO POWER is present at an IAG meeting.

10 May 2008

During e-mail correspondence between CO POWER and DCO HARPER the expense of Martin GRIME and his perceived amount of downtime is discussed.

12 May 2008

The States of Jersey Police issue a press statement

announcing that five teeth have now been found.

14 May 2008

In an e-mail from DCO HARPER to **OFFICER X** and others, he [HARPER] accepts that no expenditure is incurred unless operationally necessary, that governance is exactly the same as in other homicide/major enquiry funding and that all expenditure is monitored.

17 May 2008

DCO HARPER is informed by journalist **X** that the LGC Forensics state they sent a letter to DCO HARPER covering their concerns about the nature of Exhibit JAR/6. This was apparently not received by the States of Jersey Police.

1052hrs – Confirmation is given by the LGC Forensics that they had sent letter to DCO HARPER. They then agree to e-mail the letter to **X**.

1522hrs – An e-mail is sent from DCO HARPER to **X** asking specifically if **X** is comfortable for DCO HARPER to state publicly that Exhibit JAR/6 is not bone to which **X** replies affirmatively.

18 May 2008

Mail on Sunday article is published entitled '*Human Bone at centre of Jersey Children's Home Inquiry is actually a piece of wood or coconut shell*'.

0847hrs – DCO HARPER e-mails **X** with a detailed final draft of the press release in rebuttal to the Mail on Sunday article.

The States of Jersey Police release a three page statement in response to the Mail on Sunday article.

20 May 2008

Dr X states that of the bones sent to X , X cannot identify the fragments as definitely human, but cannot rule out the possibility that they are human. X elaborates to say that human osteonal size and microstructure share characteristics with mid sized mammals such as sheep and goats.

0920hrs – X records in X Major Incident Management log that of the bone fragments sent to X , X states they are pre-1950's.

21 May 2008

A States of Jersey Police press release states that *'of the six [teeth] we have sent to the UK, five of these cannot have come out naturally before death, and only one of those six has signs of decay. The rest have a lot of root attached. We have been told that teeth could come out naturally during the decomposition process'*.

The statement goes on to further announce that *'ten of these bone fragments were found yesterday (in an ashy area of cellar 3) and identified as being human while around 20 were found in the last two weeks. The bone fragments have been identified as being human'*. The statement then explains the need to date the bones and that this could prove *'pivotal to the direction of the enquiry'*. It then adds *'some of the bones exhibit signs of burning, and some show signs of being cut. This means that we could have the possibility of an unexplained death – and evidence of a dead child or children in the cellar. There was a fireplace in the cellar. It does not mean that yet, we are launching a homicide enquiry. That depends on the dates which we*

receive back on all the bones... What we do not know yet regarding the bone fragments and teeth, is who that person is or how they died'.

22 May 2008

The Council of Ministers reaffirm the statement made on 26 February 2008 committing to provide all necessary and efficient resources to the investigation.

23 May 2008

Third ACPO Homicide Working Group report is delivered to the States of Jersey Police.

24 May 2008

The States of Jersey Police issue a press release confirming the 'shackles' were found alongside a second pair of what appear to be home made restraints.

Within a States of Jersey Police press release, DCO HARPER expresses his opinion regarding Exhibit JAR/6 that although the opinion is now less conclusive, they have not had a definitive contradiction to the original belief.

27 May 2008

Steven AUSTIN-VAUTIER writes to CO POWER asking him to confirm that expenditure being incurred was being controlled within the Finance Directions.

28 May 2008

The States of Jersey Police release a nine page statement setting out the history and progress of the investigation to date.

29 May 2008

Andrew LEWIS takes over responsibility regarding the ongoing Child Abuse Investigation from Wendy KINNARD.

A copy of minutes from the Council of Ministers states that ultimate operational responsibility for the investigation remained with the Chief Officer, States of Jersey Police.

the oversight board had met.

Andrew LEWIS makes a statement in the States saying that it remains the case that there is no definitive scientific finding regarding Exhibit JAR/6.

DCO HARPER informs CO POWER that they plan to start work on Site two on 5 July 2008.

Details about how the community can contact the IAG are detailing in a press release issued to the media by X .

29 June 2008 A report by DCO HARPER is submitted to CO POWER explaining why he [HARPER] released the press statement after the arrest and subsequent release of suspects 'A'

30 June 2008 Fourth ACPO Homicide Working Group report delivered to the States of Jersey Police.

1 July 2008 The IAG write to DCO HARPER to express their concerns.

7 July 2008 Work at Haut de la Garenne concludes and the effort was moved to site two at Victoria Tower.

9 July 2008 Entry to the Victoria Tower site is gained and work commences.

0820hrs – The States of Jersey Police issue a press release detailing the imminent retirement of DCO HARPER and informing the press of the plans to fill his role of SIO.

21 July 2008 X sends an e-mail to DCO HARPER trying to seek clarification of what was expected of the IAG.

23 July 2008 A Financial Oversight Meeting is held between DCO HARPER, CO POWER, Steven AUSTIN-VAUTIER and X

- 31 July 2008 Steven AUSTIN-VAUTIER writes to Ian BLACK confirming that he had been provided with assurances from CO POWER that appropriate financial controls were in place with regards to the historic abuse enquiry and that the SIO confirms that all expenditure has been necessary to further the operational aims of the investigation.
- 1 August 2008 CO POWER e-mails X with a suggested statement concerning SIO continuity, stating *'in order to establish a long term and resilient command structure for the enquiry and the force the leadership of the enquiry will be re-structured to reflect the distinction between the strategic and policy role, and that of day to day operations'*.
- 2 August 2008 Conclusion of work at Victoria Tower
- 4 August 2008 David WARCUP takes up DCO position with the States of Jersey Police.
- 1305hrs – X [on behalf of the IAG] e-mails CO POWER, via X, asking for direction and leadership.
- 1842hrs – CO POWER replies to X, suggesting a meeting with himself, DCO David WARCUP and OFFICER X to *'clear the air and get things back on track'*.
- 11 August 2008 DCO David WARCUP takes responsibility for Operation Rectangle.
- 13 August 2008 An amended proposition for funding is lodged, the requested sum being increased to £7.5 million.
- DCO WARCUP tells X that he is going to initiate a Gold Group. X replies

saying that it was recommended earlier on in the enquiry, but that CO POWER and DCO HARPER said they were not going to have one.

15 August 2008

DCO David WARCUP directs that the States of Jersey Police would use NPIA guidance wherever possible as the standards to be applied to the investigation.

19 August 2008

CO POWER attends an IAG meeting.

21 August 2008

CO POWER e-mails Bill OGLEBY stating that with regards Exhibit JAR/6 '*My [POWER] understanding is that there is no conclusive scientific finding one way or the other*'.

27 August 2008

An announcement is made by the States of Jersey Police detailing the appointment of Detective Superintendent Michael GRADWELL as the new SIO.

A meeting takes place between DCO WARCUP, the Attorney General, **X**, Stephen BAKER, **X** and **OFFICER X**. This led to the decision being taken to establish a Gold Group for Operation Rectangle.

1 September 2008

The inaugural States of Jersey Police Gold Command meeting was held – present were DCO David WARCUP, **OFFICER X**, **OFFICER X**, **OFFICER X**, **OFFICER X** and **X**.

8 September 2008

The States of Jersey agree to the amended funding proposition of £7.5 million.

Detective Superintendent Michael GRADWELL starts work as SIO for Operation Rectangle with the States of Jersey Police.

9 September 2008 Gold Group Meeting.

16 September 2008 Gold Group Meeting.

19 September 2008 An e-mail is sent from DCO WARCUP to
OFFICER X asking to
reactivate the CIA if it has been deferred.

23 September 2008 Gold Group Meeting.

30 September 2008 Gold Group Meeting.

2 October 2008 DCO WARCUP speaks to CO POWER regarding e-mails concerning ex-DCO HARPER and updates him in relation to the progress of Operation Rectangle including *'the continuing difficulties in relation to the findings at Haut de la Garenne, the fact that the information available was not always correctly reported and not corrected when other evidence emerged... how and when we present findings... the description of issues such as cellars, shackles, the fact that certain lines were suspended and not pursued to conclusion'*.

3 October 2008 Detective Superintendent Michael GRADWELL raises concerns about the misrepresentation of evidence.

A Financial Oversight Meeting is held, attended by CO POWER, Steven AUSTIN-VAUTIER,
X and Detective Superintendent Michael GRADWELL.

7 October 2008 Gold Group Meeting.

Appendix 1**Highly Confidential – Personal Information**

8 October 2008 1045hrs – X meets with CO POWER.
1210hrs – X meets with Detective Superintendent Michael GRADWELL telling him X [X] position had become untenable.

9 October 2008 X calls DCO WARCUP stating that the ACPO Homicide Working Group advised CO POWER and DCO HARPER to have a Gold Group, but they refused.

14 October 2008 Gold Group Meeting.

21 October 2008 Resignation of Home Affairs Minister Wendy KINNARD.

21 October 2008 Gold Group Meeting.

24 October 2008 Audit titled 'Limited Review of Historic Child Abuse Enquiry Financial Controls Home Affairs Department'.

28 October 2008 Gold Group Meeting.

10 November 2008 Gold Group Meeting.

12 November 2008 DCO WARCUP and SIO Michael GRADWELL conduct a press briefing providing details of finds and describing inaccurate information disclosed.
1110hrs – A meeting is held between Andrew LEWIS, Bill OGLE and CO POWER where CO POWER is informed of the decision to implement the discipline process against him.

Appendix 2 – Summary of Operation Rectangle cases

1. Operation Rectangle commenced in September 2007. The operation was established to investigate allegations of historical child sexual abuse amid growing concerns that abuse had been prevalent in certain institutions in Jersey; primarily the former Haut de la Garenne Children's Home and the Jersey Sea Cadets Corps. The terms of reference were to investigate serious indictable offences. Below are some headline outcomes:

- To date, Operation Rectangle has recorded that a total of 210 victims have come forward and made allegations of 429 offences ranging from Common Assault to Rape. The offence dates range from 1947 to 2004.
- Of the 429 allegations, 47 have an element of corroboration. 73 of the total allegations would fall into the category of serious indictable offences and 17 of those have an element of corroboration.
- Of the 429 offences alleged, 214 were indecent acts, of which 53 would be classed as serious indictable offences.
- The remaining 215 offences alleged were physical assaults, of which, 195 were common assaults and would not be classed as serious indictable offences. The remaining 20 allegations were of Actual Bodily Harm (18) and Grievous Bodily harm (2) and were treated as serious indictable offences.
- The 429 allegations were made against 180 different individuals, 23 of whom are deceased. A further 26 individuals have not been identified.
- Of the 73 allegations of serious indictable offences, 30 are alleged to have been committed by persons unknown and 11 offences by persons who are deceased.
- In respect of the remaining 32 allegations, which relate to 35 suspects/persons of interest, investigation files have been submitted for charging advice.

2. The current position regarding these files is as follows:
- Crown Advocates have recommended that 21 files failed to meet the evidential test.
 - 10 files still await charging advice.
 - Four persons have been charged with offences connected to Haut de la Garenne.

Persons charged with offences committed at Haut de la Garenne

3. Person 'V' was a worker at Haut de la Garenne between 1970 and 1974. He was charged with 22 offences of indecent assault and common assault on a number of child residents at the home and stood trial at the Jersey Royal Court in August 2009. He was found guilty of 8 counts of indecent assault on females and 1 count of common assault on a male. On 21 September 2009, he was sentenced to a total of 2 years imprisonment.
4. Person 'W' was a child resident at Haut de la Garenne in 1973, having been in care since 1964. On 12 May 2009, he pleaded guilty to two counts of gross indecency and two counts of indecent assault on male residents in the home. On 22 June 2009, he was sentenced to two years probation.
5. Person 'X' was a foster parent to a young boy who was a resident at Haut de la Garenne. He has been charged with committing an act of gross indecency on the child and is currently on bail awaiting trial at the Jersey Royal Court.
6. Person 'Y' has been charged with 27 offences of Rape and indecent assault against two young girls between 1975 and 1986. One of the offences relates to a girl who was resident at Haut de la Garenne and the remainder to her friend who was not a resident. He is currently remanded in custody awaiting trial at the Jersey Royal Court.

Person charged (unconnected to Haut de la Garenne)

7. Person 'Z' was investigated by Operation Rectangle as part of the wider Child Abuse enquiry. Neither he nor his victims were connected with Haut de la Garenne. He was charged in June 2008 with numerous offences of child sexual abuse committed in Jersey between 1968 and 1982. In two separate trials at Jersey Royal Court, he was found guilty of a total of 5 counts of rape, 13 counts of indecent assault and 1 count of procuring an act of gross indecency. On 21 August 2009, he was sentenced to a total of 15 years imprisonment. This case does not form part of the statistical information previously referred to in this Section of the Report.

8. In addition to those persons charged, a number of referrals have been made as follows:
 - A total of 41 referrals have been made to the Public Protection Unit, States of Jersey Police.
 - Two complaints against a female suspect have been referred to Dorset Police.
 - One complaint of abuse at a Children's home in Warminster was referred to Wiltshire Police.
 - One individual is under investigation by Leicestershire Constabulary.
 - One report has been referred to West Yorkshire Police.
 - One report has been referred to Guernsey Police.

Appendix 3 – Policy Book Entries

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X76	Main Lines of Enquiry - Book 1	1	01 October 2007 10:00:00	OFFICER X	Operation Rectangle is a single agency led investigation into historical child sexual abuse involving a number of institutions in Jersey. This will include but not be restricted to Haut de la Garenne children's home and the Jersey Sea Cadets organisation. The case for investigation in respect of these two institutions/organisations has already been subject of a report approved by the Deputy Chief Officer and has taken into account issues of proportionality and necessity to conduct the investigation.	None given
X76	Main Lines of Enquiry - Book 1	2	01 October 2007 10:15:00	OFFICER X	Operation Rectangle is an intelligence led investigation which will adopt a NIM intelligence/evidence based approach to ensure all reasonable lines of enquiry are pursued. It will be a search for the truth which will take account of the victims rights under ECHR not to suffer any inhuman or degrading treatment and their right to family life. It will also take into account any suspect's right to a fair trial and recognise the duty for an investigation to pursue all reasonable	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>lines of enquiry, whether these point towards or away from a suspect.</p> <p>Although initially the focus of the investigation will be historic it must be acknowledged that those who sexually abuse children invariably do not stop offending. The enquiry will therefore consider three time parameters; 1) What a suspect was doing at the time of historic offence, 2) What they are doing now, 3) What they were doing in the intervening period. The investigation will thus have a reactive and proactive element. The reactive element will look at the specific allegations in the first time parameter listed above whilst the proactive element will consider the second two time parameters. The offences being investigated will be serious, indictable offences committed against some of the most vulnerable members of society and all appropriate proactive policing methods will be considered and subject to subsequent policies.</p>	
X76	Main Lines of Enquiry - Book 1	3	01 October 2007 11:00:00	OFFICER X	Operation Rectangle will be run on a card index, manual incident room basis.	No HOLMES capability within the States of Jersey Police. This will be a long term enquiry for which it is not

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						practicable to bring in mutual aid in the form of HOLMES trained officers.
X76	Main Lines of Enquiry - Book 1	4	01 October 2007 11:15:00	OFFICER X	Initial resources include OFFICER X, OFFICER X, OFFICER X, OFFICER X and OFFICER X .	There is an even gender balance and a wide range of investigative skills and ability. OFFICER X is a trained SIO and experienced in CID and child protection enquiries. OFFICER X is a highly experienced detective sergeant who has worked on similar complex enquiries and OFFICER X has many years experience within child protection. OFFICER X and OFFICER X are both ABE interview trained. OFFICER X is a SOLO officer but will primarily be utilised within MIR.
X76	Main Lines of Enquiry - Book 1	5	01 October 2007 11:45:00	OFFICER X	Throughout the enquiry the following systems will be operated as it is	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>recognised that the welfare of staff involved in such a complex and long running enquiry is vitally important. 1) OFFICER X will be responsible for monitoring and reviewing the welfare of enquiry staff, 2) OFFICER X will have a monthly support meeting with the welfare officer, 3) Any concerns re welfare of staff to be brought to attention of OFFICER X ,</p> <p>4) All staff to be advised of their personal responsibility for their health and safety and responsibility to their colleagues, 5) Every 3 months the welfare officer will conduct a defusing/debriefing session with all staff.</p>	
X76	Main Lines of Enquiry - Book 1	6	13 December 2007 17:00:00	OFFICER X	To review the resourcing of the investigation which can be categorised as Category A+ and a critical incident and consider the need to move to HOLMES.	Category A+ applies to major investigations where public concern and the associated response to media intervention is such that normal staffing levels are not adequate. A critical incident is where the effectiveness of police response is likely to have a significant impact on

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						confidence of victim and the community. The current enquiry clearly falls within these boundaries.
X76	Main Lines of Enquiry - Book 1	7	16 December 2007 14:00:00	OFFICER X	To move the enquiry to HOLMES.	The enquiry has now moved to the stage where the complexity and number of lines of enquiry are such that the efficient retrieval etc of information can only be properly facilitated by moving to HOLMES. However, in view of the fact that D&C will have to be approached the actual date for this is likely to be in the New Year.
X76	Main Lines of Enquiry - Book 1	8	28 December 2007 16:00:00	OFFICER X	Not to produce a community impact assessment or establish a gold group in terms of the manual.	Although technically a critical incident and cat 'A' investigation this is solely because of the context of the Island and the size of the force. There is no likelihood of community tensions leading to

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						damage to comm relations. In respect of the gold group it is not appropriate because of the involvement of other agencies in the allegations and the additional possibility of crown advocates being appointed imminently.
X76	Main Lines of Enquiry - Book 1	9	28 December 2007 14:30:00	OFFICER X	Not to instigate external review of investigation unless it becomes a murder/homicide enquiry.	At this time the enquiry is dealing with 'detected' matters, ranging from assault to rape. All suspects are named, known or deceased. Should there be human remains found or other developments emerge which change the likely status of the investigation, I will reconsider.
X76	Main Lines of Enquiry - Book 1	10	07 January 2008 11:00:00	OFFICER X	To increase the strength of the enquiry team by fire officers of the States of Jersey Police.	To enable timeous allocation and completion of actions and to prepare for the next phase of enquiry.

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X76	Main Lines of Enquiry - Book 1	11	12 January 2008 11:30:00	OFFICER X	To discontinue lines of enquiry relating to bones by the kitchen of HDLG under concrete. However, efforts to continue to clarify claims of human remains in grounds.	Knowledge of bones found and examined by pathologist - found out to be animal bones.
X76	Main Lines of Enquiry - Book 1	12	14 January 2008 14:55:00	OFFICER X	Now with the increase in size of team, to allocate each pair of officers specific suspects and all actions associated with those suspects.	To give ownership and ensure better quality of investigation.
X76	Main Lines of Enquiry - Book 1	13	22 January 2008 14:30:00	OFFICER X	To invite forensic archaeology team to Island to commence preliminary search of grounds of HDLG using ground penetrating radar in initial search for human remains.	Information from two witnesses, although not site specific raises a possibility which should be investigated.
X76	Main Lines of Enquiry - Book 1	14	19 February 2008 16:00:00	OFFICER X	Following indications of dog and GPR to make further enquiries re interior. In particular to seek further advice from person in charge of excavation in 2003 and his staff	Info from people working there in 2003 casts doubt on whether some of the bones found there were animal. Documentation surrounding the find is scant - particularly the pathologists report. There are suggestions that first pathologist thought some of them human. All persons involved to be re-interviewed and

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						resources directed to this aspect of enquiry.
X76	Main Lines of Enquiry - Book 1	15	23 February 2008 10:00:00	OFFICER X	To contact ACPO Homicide Working Group to see if they can provide a review team and mentors for enquiry and key members.	To ensure clarity of purpose, audit and advise, and to provide means of ensuring proper governance of enquiry to date.
X76	Main Lines of Enquiry - Book 1	16	23 February 2008 18:00:00	OFFICER X	To treat HDLG as potential homicide scene with all necessary investigative procedures in place.	Necessity to ensure that no evidence is lost should the bone fragment be found to be within time parameters of enquiry
X77	Main Lines of Enquiry - Book 2	17	25 March 2008 12:00:00	OFFICER X	All animal bones positively identified as animal to be destroyed (id by anthropologist)	Keep scene manageable and prevent clogging of system
X77	Main Lines of Enquiry - Book 2	18	16 April 2008 13:00:00	None given	Not to instigate a formal homicide enquiry in relation to the skull fragment first found at HDLG. However, HDLG to remain scene of potential homicide	Carbon dating of fragment not possible. However, archaeological evidence is that it was placed at locus no later than 1940. Person may have died at any time before that. Suspects, if any, likely

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						deceased. However, until intelligence and evidence of possible human remains are explained then scene must remain as potential homicide
X77	Main Lines of Enquiry - Book 2	19	05 May 2008 18:00:00	OFFICER X	To treat bunkers at the Victoria Tower as new scene in enquiry	Intel from a number of witnesses/sources most with HDLG connections, which describe either finding human remains/child's body and also make allegations of serious sexual abuse by HDLG staff. Further info of possible occult connection
X77	Main Lines of Enquiry - Book 2	20	05 May 2008 18:00:00	OFFICER X	To have scene at Victoria Tower secured to commence research into locus but to take no other action at all until we exit HDLG. Keep locus confidential until then	To protect scene and to manage resources
X77	Main Lines of Enquiry - Book 2	21	16 May 2008 17:00:00	OFFICER X	To NFA further enquires and to close current lines of enquiry into existing allegations in respect of the Jersey Sea Cadets	Lack of corroboration and passage of time make successful prosecution unlikely

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X77	Main Lines of Enquiry - Book 2	22	12 August 2008 10:00:00	OFFICER X	To decline to release any victim's statement for civil proceeding until the criminal proceedings are complete	To release any statement prior to the conclusion of criminal proceedings could have an adverse effect on the administration of justice
X77	Main Lines of Enquiry - Book 2	23	08 September 2008 09:52:00	GRADWELL	D/Supt GRADWELL to be appointed as Senior Investigating Officer of Operation Rectangle	1) DCO HARPER retired, 2) D/Supt GRADWELL PIP3 qualified officer, 3) Selected for role
X77	Main Lines of Enquiry - Book 2	24	08 September 2008 16:10:00	GRADWELL	To request return of [named suspect] file from Attorney General's office	Main outstanding line of enquiry is interview of [named suspect] plus SIO wishes to review file
X77	Main Lines of Enquiry - Book 2	25	10 September 2008 09:00:00	GRADWELL	To hold investigation management team meeting 11:00 each Wednesday	Good practice
X77	Main Lines of Enquiry - Book 2	26	11 September 2008 09:00:00	GRADWELL	To use one policy file only	SIO is used to this practice
X77	Main Lines of Enquiry - Book 2	27	11 September 2008 10:30:00	GRADWELL	Main line of enquiry and position statements. Not to amend enquiry direction or make major decisions about the management of the enquiry or strategies	1) To pursue and id outstanding victims via press appeal and consider use of intermediaries in a last effort to do this – no trawling, 2) Whilst SIO

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						assimilates knowledge and awaits MET review and forensic review. Whilst SIO has identified an unusual approach to this investigation it would be ineffective to start changes until the 2 outstanding reviews have been considered
X77	Main Lines of Enquiry - Book 2	28	12 September 2008 15:30:00	GRADW ELL	To arrest [named suspect] for x3 rape on [named victim] OP arranged for Tues 16/09/08	Evidence outlined by OFFICER X action reasonable necessary and proportionate
X77	Main Lines of Enquiry - Book 2	29	15 September 2008 11:00:00	GRADW ELL	To release victims statements to solicitor making civil claims	On receipt of agreed undertaking regarding confidentiality and written authority of clients - this follows from legal advice by Steve BAKER
X77	Main Lines of Enquiry - Book 2	30	17 September 2008 12:30:00	GRADW ELL	To review actions relating to [named suspects] and prioritise	All these cases are in legal process - these actions must be completed asap
X77	Main Lines of Enquiry - Book 2	31	17 September 2008 12:30:00	GRADW ELL	To increase victim/witness management team to four officers	For reasons of resilience it is top

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						priority we provide a high standard and quality service to victims
X77	Main Lines of Enquiry - Book 2	32	18 September 2008 15:00:00	GRADW ELL	To utilise X as advisor re approach to victims who have not come forwards	Renowned psychologist whose advice is appropriate in this case
X77	Main Lines of Enquiry - Book 2	33	18 September 2008 15:00:00	GRADW ELL	To utilise X as advice for development of investigation strategy	Recommended by MET review team officer has considerable experience in investigation of Historic Child Abuse Enquiry
X77	Main Lines of Enquiry - Book 2	34	19 September 2008 08:50:00	GRADW ELL	Forensic Review Document – X to liaise with authors of report to provide feedback and new amended review document to be produced	The review was conducted without consultation with X - it is therefore incomplete and required amendment. This can be done promptly and then can be used to provide the way forward
X79	Victim/Witness Policy - Book 1	1	02 October 2007 15:35:00	HARPER	During Operation Rectangle officers will be contacting people whom it is believed can help with enquiries into	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>Historic Institutional Child Abuse. All information obtained from all individuals will be provided on a purely voluntary basis. The witness will not be 'coached' or 'prompted' to say anything that they do not wish to say. However, the officers will at times put questions to the witness which relate to the enquiry. It is the intention of The States of Jersey Police throughout this enquiry to get to the truth of the matter and thereby remain open minded about any outcome. At all times interviewing officers will remain fair and just concerning this enquiry and will ensure the individuals rights are not breached. And that all related policies and procedures are adhered to.</p>	
X79	Victim/Witness Policy - Book 1	2	02 October 2007 15:48:00	HARPER	<p>Prior to approaching any potential witness or victim involved in this investigation all officers allocated an action will undertake full research of the individual, including a risk assessment and determine from the outset whether social services involvement or any other special needs are necessary prior to contact being made. This is necessary in the interests of all parties, victims, witnesses and police officers in identifying and thereby allaying any</p>	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					risks or other concerns the officers have about contacting the witness	
X79	Victim/Witness Policy - Book 1	3	02 October 2007 15:54:00	HARPER	Whenever officers from Operation Rectangle make initial personal contact with a witness in this enquiry there will be two police officers conducting the visit - unless the victim/witness is a child or vulnerable person and it has been decided that a joint police/social worker visit is necessary	This is intended to protect the rights of the individual and maintain a transparency and integrity throughout the investigation and establishing the truth of the matter
X79	Victim/Witness Policy - Book 1	4	03 October 2007 08:52:00	HARPER	When a victim is identified the officer will commence a victim (VLO) family (FLO) liaison log (Jersey Version) and this record will be maintained throughout the duration of police involvement with that complainant. The log will ensure that integrity, continuity and ongoing assessment are maintained	None given
X79	Victim/Witness Policy - Book 1	5	03 October 2007 08:56:00	HARPER	Officers are to ensure that victims or witnesses receive appropriate aftercare when and where necessary. Officers will research what services are available and with the permission of the victim or witness will make the necessary referral on their behalf. During initial and subsequent visits consideration should be given to the individual needs of the person whom	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					the officer is interviewing and will include any religious, or cultural implications, mental health or learning difficulties, appropriate adult needs and physical disabilities in order that individuals human rights are not breached	
X79	Victim/Witness Policy - Book 1	6	03 October 2007 09:07:00	HARPER	Liaison officer (dedicated to the victim) should consider preparing an exit strategy at an early stage for when the investigation comes to a close. And at that time will also address the issue of ongoing support - post investigation	None given
X79	Victim/Witness Policy - Book 1	7	03 October 2007 09:13:00	HARPER	For the purposes of this investigation a significant or key witness is a person who: 1) Has been, or claims to have been a first hand witness to the immediate event or events directly associated with it, or 2) has or claims to have witnessed a confession or a threat or 3) stands in a particular relationship to the victim or to some other person who appears to be of importance to the enquiry This criteria will help to identify important witnesses efficiently and assist in prioritisation of actions	None given
X79	Victim/Witness Policy - Book 1	7	03 October 2007 09:26:00	HARPER	When a significant or key witness is identified the interviewing officer will follow this protocol – 1) The initial	This process will negate allegations of coaching or prompting

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					interview shall be either video or audio tape recorded, 2) The interviewing officer will prepare a statement based on the initial interview, 3) The officer will then record the significant witness statement, 4) The officer will go through the statement with the witness, 5) This process will also be recorded on video or audio tape, 6) The witness will be invited to make changes if appropriate, 7) Any subsequent contact with the significant or key witness will be recorded in the FLO/VLO log	and will also be fundamental in the protection of the individuals rights and a gathering of the truth
X79	Victim/Witness Policy - Book 1	8	03 October 2007 13:37:00	HARPER	Throughout this investigation, where a victim or witness is either under the age of 17 years or is in need of Special protection in that he/she is an witness to an offence involving sex or violence or is deemed to be a vulnerable person in that they are suffering from a mental disorder, impairment of intelligence and social functioning or physical disability or disorder, they will be interviewed by officers familiar to and trained in the application of 'The Guidance in Achieving Best Evidence' unless the witness objects, or there are insurmountable difficulties	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X79	Victim/Witness Policy - Book 1	9	03 October 2007 14:27:00	HARPER	Throughout this investigation use will be made of the NSPCC (national society for the prevention of cruelty to children) for the aftercare and continued support of victims and significant key witnesses. This decision sits alongside decision 5 adding further support and resilience to the ability of the officers to provide the necessary support and aftercare to any person who requires it	None given
X79	Victim/Witness Policy - Book 1	10	04 October 2007 09:18:00	HARPER	Any individual identified as a survivor of historic child abuse (victim) shall be subject to a risk assessment regarding the issues surrounding their situation and confronting the investigation. This in order to identify aspects of the case which may create problems so as to undermine the investigation. It is the intention of The States of Jersey Police to seek the truth and remain open minded considering all possibilities. Therefore, officers will always consider the following prior to interviewing a victim: How the first account of the allegation came about, the motivation of the complainant, the motivation of any third party having influence over the complainant. In the case of multi complainants, whether there has been an collusion in their accounts, if there	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>has been collusion, then why, when and where as there may be good reason for the collusion. Whether the complainant has been solicited from different complaints by the same party. This decision continued page 12. The similarity between complaints and anything undermining corroboration. This decision sits alongside decision 2 as a general guideline to the research required by police prior to contacting a witness. This policy is intended to strengthen the integrity of the enquiry throughout when dealing specifically with victims of historic child abuse in order prove the veracity of any complaint and thereby arrive at the truth</p>	
X79	Victim/Witness Policy - Book 1	11	08 October 2007 08:44:00	HARPER	<p>The Operation Rectangle Enquiry Team will as far as is possible attempt to identify all survivors of Historic abuse by evidential gathering and intelligence gathering means. This will help negate any suggestion that the team has been 'fishing' or trawling for victims. In line with other policies, i.e., Main lines of enquiry decision 12 - the enquiry team will always adopt a NIM based approached and seek the truth – that will take into account the victim's rights under ECHR not to suffer any inhuman</p>	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					<p>or degrading treatment and a right to family life and privacy. Albeit the above to good practice this does not prevent the enquiry team from using all reasonable means available to get to the truth of the matter that will entail at some stage making enquiries with victims who have not been identified by the described means</p>	
X79	Victim/Witness Policy - Book 1	12	08 October 2007 09:00:00	HARPER	<p>The States of Jersey Police recognises the importance of passing victim information to the appropriate victim support agency and during Operation Rectangle this agency will be the National Society for the protection of cruelty to children (NSPCC). However, as this enquiry will involve the investigation of serious sexual offences permission will always be sought from the victim to refer them to the nominated agency, or to disclose any information about them to that or any other agency. Referral of an individual to the NSPCC will allow that agency to carry out their work of supporting victims both through the criminal justice system and for those whose cases do not reach the courts. However, 'survivors of child abuse' must have a genuine opportunity to say if they do not</p>	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					want their details passed to the NSPCC. This decision will be recorded.	
X79	Victim/Witness Policy - Book 1	12	09 October 2008 No time given	HARPER	If a survivor of child abuse or a witness does not wish to be referred to or require NSPCC involvement the police will record the fact either in a pocket notebook, a computerised system or in a form created for the purpose.	This is in order to rebut any allegation that a referral to the NSPCC was not offered
X79	Victim/Witness Policy - Book 1	13	15 November 2007 17:00:00	OFFICER X	Service agreement entered into with NSPCC re operation (copy attached). Brief provided to NSPCC (copy attached)	Helpline to be used to offer support, counselling, advice to callers, to refer details re operation rectangle to the enquiry team. The enquiry team will be responsible for providing information to victims/witnesses re helpline
X79	Victim/Witness Policy - Book 1	14	05 December 2007 11:30:00	OFFICER X	Ongoing support for children and young persons (<25yrs) will be provided by NSPCC using counsellors from Guernsey	With regard to adult victims ongoing counselling/support will be provided from Jersey agencies unless there is good reason as to why this should not happen. Otherwise alternative support will be sourced from

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						Guernsey or United Kingdom
X79	Victim/Witness Policy - Book 1	15	21 February 2008 13:15:00	HARPER	Re: Decision 10. This will apply only to those victims who become witnesses	To align workload with resources and necessity
X79	Victim/Witness Policy - Book 1	16	21 February 2008 14:00:00	HARPER	Evidence to be obtained from victims by Art. 9 statements except in cases where they are particularly vulnerable or have learning difficulties	To produce best evidence in most acceptable form
X80	Victim/Witness Policy - Book 2	17	06 March 2008 11:00:00	HARPER	Following further consideration we will not interview all residents but restrict it to those identified as victims/witnesses	Intel led interviews will prevent accusations of 'trawling' and ensure enquiry is kept manageable. Sufficient media coverage has been available to bring most victims forward who are willing to do so
X80	Victim/Witness Policy - Book 2	18	15 May 2008 17:30:00	HARPER	To adopt a family liaison strategy incorporating one full time FLO and one NSPCC carer in accordance with strategy and as outlined in attached document	To provide a service which will prevent loss of confidence in enquiry whilst remaining commensurate with resources available to the States of Jersey Police and the enquiry

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X80	Victim/Witness Policy - Book 2	19	23 May 2008 18:00:00	HARPER	Deputy SIO to discuss with individual officers who have been on enquiry for six months and every six months subsequently, facility for consultation with welfare advisor and offer same	To ensure adequate welfare facilities are available as required
X80	Victim/Witness Policy - Book 2	19	26 May 2008 10:00:00	HARPER	Newly installed VLO's to review service to victims to ensure that the ongoing enquiry is sensitive to their needs	To ensure duty of care to victims is fulfilled to gain maximum benefit to the enquiry
X80	Victim/Witness Policy - Book 2	20	11 August 2008 15:00:00	OFFICER X	To reassure victims of the continuing momentum of the investigation and the determination of investigation team to continue in a thorough and professional manner during this handover period and whilst awaiting a new SIO. Victim liaison officers to contact all victims and pass this message of reassurance as well as update them as to the progress of their particular investigation. In addition they will attend care leavers meeting on 13/8 and personally reassure all attending of the continuance of the enquiry	Victim support and reassurance
X80	Victim/Witness Policy - Book 2	21	19 August 2008 16:00:00	OFFICER X	Procedure following decision not to prosecute by Attorney General – 1) OIC, DS and Deputy SIO or SIO to meet with Attorney General or member of legal team to discuss case, in particular agree the facts, analysis of	This procedure will be followed to ensure that no evidence is overlooked and no investigative opportunity is missed.

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					evidence and bring to his attention any new evidence or matters for his consideration that he may not be aware of, 2) any matters which are not resolved at this stage are to be referred to DCO Mr WARCUP for further discussion with Attorney General, 3) Once Attorney General has given his final decision not to prosecute to officers a strategy will be agreed around communicating that decision to the victims in that particular case. This will take into consideration amongst other matters the question of personal visit/telephone call/letter to communicate the decision and ensuring proper support structures are in place for the needs of the victims concerned, 4) in accordance with the Attorney General's wishes the victims concerned will be offered the opportunity to meet with a member of the legal team to discuss the rationale behind the decision should they so wish	It will also ensure that victim care is a priority and we continue to provide a service that maintains confidence, and integrity in the investigation
X81	Persons of Interest/Suspect Policy	None given	26 November 2007 15:35:00	HARPER	To prioritise risk assessment of current positions held by suspects to ascertain if in positions of responsibility. NB resources unavailable at moment. Attempts being made to obtain staff. To start on Monday 3rd Dec but list to be	Whilst there is no evidence that any of our suspects are currently holding positions which might allow them access to

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					prioritised immediately	children/vulnerable persons there is a need to confirm that and assess any risk
X81	Persons of Interest/Suspect Policy	None given	No date given 15:50:00	HARPER	To task JIB to carry out action as at 1. We will prepare prioritised list of suspects and pass it on so that current location of those suspects can be ascertained	To deal with any potential risk current to children/vulnerable persons
X81	Persons of Interest/Suspect Policy	3	29 November 2007 11:33:00	OFFICER X	To consider the following risk factors when researching suspects and use them to prioritise actions/possible arrests	1) previous convictions, incl full MO, 2) previous allegations, 3) access to children - employment, hobbies and interests, 4) like minded associates, 5) family history, 6) intelligence, 7) computer access, mobile phone details
X81	Persons of Interest/Suspect Policy	4	06 December 2007 11:00:00	HARPER	No suspect to be arrests, except in unavoidable circumstances, until a file containing all the evidence is presented to SIO, Deputy SIO	For consideration in conjunction with FLA X . To ensure full legal advice is obtained before arrest and other policy decisions be made as to timing of arrests etc

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X81	Persons of Interest/Suspect Policy	5	19 March 2008 15:30:00	HARPER	To introduce 'investigation logs' which will make the enquiry more 'suspect' focussed and make it easier for SIO and Dep SIO to supervise work on suspects by team	Allows for work on each suspect to be all recorded in an easy to check log - one log per suspect. Investigation/enquiry becomes more 'suspect focussed' and allows SIO and Dep SIO to more easily check ongoing progress
X81	Persons of Interest/Suspect Policy	6	19 March 2008 16:00:00	HARPER	To arrest suspects only when SIO satisfied that evidence collation is complete and case is as strong as possible	To enable law officers to reach decision on prosecutions on the basis of full extent of knowledge
X81	Persons of Interest/Suspect Policy	7	10 April 2008 11:00:00	HARPER	Whenever possible to get preliminary file to Barrister X before arrest so that charges can be flagged up pre-arrest	To avoid having to release suspects from custody w/o charge and to I/D potential evidential problems early
X81	Persons of Interest/Suspect Policy	8	29 March 2008 09:00:00	HARPER	Not to adopt a scoring matrix to manage and prioritise the arrest of suspects	Not suitable in this context. Not the huge variety of offences/nor bulk to justify. Also not flexible enough to allow the necessary

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						discretion in the circumstances of this enquiry
X81	Persons of Interest/Suspect Policy	9	01 May 2008 09:00:00	HARPER	To further prioritise suspects and to direct resources to those. Also to examine all suspect reports and NFA where necessary	To prioritise and therefore to enhance possibility of prosecution in cases likely to result in conviction
X82	Finance Policy File	1	01 October 2007 09:00:00	HARPER	All expenditure to be monitored to ensure maximum Operation effectiveness and financial accountability. All O/T to be approved by DS in advance	In light of the different arrangements for Police budgets to UK, emphasis has to be on limiting spending to that which is operationally necessary to attain objectives of the enquiry
X82	Finance Policy File	2	25 November 2007 10:00:00	HARPER	With UK officers/specialist investigators now being employed necessary accommodation costs will be incurred. Such costs to be approved by me. Home-Jersey fares approved by DS/DI	To control costs of necessary expenditure and to ensure effective and accountable enquiry
X82	Finance Policy File	3	01 December 2007 10:00:00	HARPER	All expenditure to £1000 (excl accom) to be authorised by DI. Over that to me	Ensure accountability and maximum effectiveness
X82	Finance Policy	4	16 December	HARPER	In light of decision re HDLG and employment of UK specialist forensic	To ensure accountability and

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	File		2007 12:00:00		anthropologists and archaeologists, numbers and deployment to be decided by scene co-ordinator in consultation with SIO	effective management to obtain successful outcome
X82	Finance Policy File	5	26 February 2008 15:00:00	HARPER	In light of the extension of staffing, developments in enquiry and likely future demands, all expenditure incurred forthwith to be done so in accordance with attached document	To ensure sound financial management whilst not interfering with operational necessity
X82	Finance Policy File	6	30 March 2008 10:00:00	HARPER	To move enquiry and HOLMES teams to new purpose built MIR in Broadcasting House which will require to be fitted and furnished	Current accommodation not sufficient and lacks security. Enquiry teams remote from team leaders and MIR team. Not enough work stations for enquiry team and they are having to 'hot desk'. This causing delays and inefficiency. The solution above will resolve these problems incl security. Also return of MIR to operational use will provide the resilience for the force should another major

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						enquiry/homicide occur
X83	Media Strategy Policy File	1	08 October 2007 08:15:00	HARPER	<p>A media strategy has been prepared. However the investigation that is Operation Rectangle has not been made known to the public yet. A covert operation is being considered initially in the hope that evidence retained by sex offenders or persons of interest will not be destroyed or moved as a result of their learning of the enquiry. It is known that even after lengthy periods of time paedophiles will retain as trophies certain memorabilia or paraphernalia. Until the potential of a covert approach to the enquiry has been fully explored States of Jersey Police will not go public. Officers from The Metropolitan Police skilled in those areas will visit the States of Jersey Police to assist in formulating a covert plan and this is anticipated to take place sometime between 22nd to 24 October 2007. Once this is completed the precise timing of the press release will be reconsidered. Balancing this decision with the public risk it is not believed at this time that persons of interest are still working directly with children. Should such a dynamic become known then further consideration will be made to</p>	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					negate such public risk. Furthermore, by not releasing the news to the public prematurely the enquiry team hopes to secure files and records from both Haut de la Garenne and Jersey Sea Cadet Corps ahead of and possible removal or destruction of the same.	
X83	Media Strategy Policy File	2	19 November 2007 09:00:00	OFFICER X	To issue press release to appeal for victims/witnesses and provide information to the public re enquiry on 22/11	1) To assist in establishing evidence discovering new witnesses, identifying suspects and eliminating people from the investigation, 2) Information received from Senator SYVRET that he has a team of BBC documentary makers coming to the Island to interview witnesses/victims. Possibility of evidence being contaminated
X83	Media Strategy Policy File	3	19 November 2007 09:30:00	OFFICER X	Appoint Press Officer X to co-ordinate media for Jersey police and liaise with appointed media officer	For NSPCC and Jersey sea cadets
X83	Media Strategy	4	19 November	OFFICER X	Press Officer to maintain a press cuttings file with copies of all releases	For disclosure

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Policy File		2007 09:45:00		given to the media and keep recordings of all press interviews/conferences given	purposes
X83	Media Strategy Policy File	5	08 January 2008 14:30:00	HARPER	Initial need for proactive press conferences and releases has now abated and the enquiry will revert to answering media questions and regular updates. To be revised as developments move on	1) To reduce danger of media influencing CJS, 2) To avoid public 'fatigue', 3) To continue to enhance public confidence
X83	Media Strategy Policy File	6	02 February 2008 15:00:00	HARPER	Prepare 'if asked' in relation to search of HDLG. Release not to confirm exact nature of what we are looking for	To prepare media response and at same time to discourage over reaction by media
X83	Media Strategy Policy File	7	21 February 2008 10:45:00	HARPER	To amend 'if asked' so as to accommodate possibility of a find	Facilitate press interest and to permit enquiry to continue unhindered
X83	Media Strategy Policy File	8	23 February 2008 10:25:00	HARPER	To release limited information revealing find of possible human remains	Encourage perception of openness with media in order to encourage positive reporting and leading to increased confidence by public in police enquiry. This should encourage further victims and witnesses to come forward

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X83	Media Strategy Policy File	9	23 February 2008 15:00:00	HARPER	To update media on a daily basis either by release through Press Officer or by briefing	To facilitate further awareness by public through co-operative media and therefore encourage victims and witnesses to come forward and provide further evidence
X83	Media Strategy Policy File	10	28 February 2008 15:20:00	HARPER	To utilise forensic manager, anthropologist, and head of CID at press briefs and to allow 'pool' media material within site	To give public a wider appreciation of the nature of the evidence gathering process and to prevent criticism or loss of confidence through the apparently slow search of various scenes. Awareness of process will increase confidence in the investigation and its effectiveness
X83	Media Strategy Policy File	11	01 April 2008 09:00:00	HARPER	To issue regular updates to media through Press Officer	To maintain profile to reassure victims and witnesses that enquiry is still active and is not being wound down. To maintain confidence in enquiry team

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
X83	Media Strategy Policy File	12	09 May 2008 16:00:00	HARPER	In light of possible results of examination of bones and teeth from cellars 3 + 4 to plan and facilitate full press briefings over 2 days at PHQ including specialists and sanitised search document	To highlight enquiry with increase of confidence in victims and witnesses and to reassure community that search has been intelligence led and not speculative
X83	Media Strategy Policy File	13	09 May 2008 16:00:00	HARPER	To invite a member of the IAG to each planned press brief	Independent observation and reassurance of community as to information given to media
X83	Media Strategy Policy File	14	18 August 2008 16:00:00	OFFICER X	All media releases to be copied to incident room and put on HOLMES	For disclosure purposes at forthcoming trials
X84	Search Policy - Book 1	1	No time or date given	HARPER	To enter by way of a search warrant the buildings of The Jersey Sea Cadet Corps at TS Jersey, Fort Regent, St Helier, JE2 4UX and any associated building at Pier Road with the intention of seizing any documentation including but not limited to written form, microfilm, magnetic tape, computer, computer disc, CD-Rom or any other form of mechanical or electronic data storage or retrieval mechanism. This will also include local and UK child protection	None given

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					policies and procedures and any other documentation that could be of assistance to the investigation team regarding child abuse within JSCC or any article suspected to have been used in connection with the abuse of children or pertinent to this investigation. This will be conducted in accordance with the attached operational order.	
X84	Search Policy - Book 1	2	No time or date given	HARPER	No further application for warrant as law seems not to allow for same	Request for warrant decline 3 times. Need to consider alternative approaches
X84	Search Policy - Book 1	3	30 October 2007 None time given	HARPER	Due to the fact that the Deputy Bailiff Mr Michael BIRT declined the request to issue a search warrant for the Jersey Sea Cadet Corps a change in tactic has been made. DCO HARPER will communicate directly with the Sea Cadets executive of Child Protection Unit at their HQ in London to garner support regarding the Jersey SCC cooperating with the investigation. Therefore a warrant will not be used to seize material	None given
X84	Search Policy - Book 1	4	08 November 2007 10:00:00	HARPER	To disclose to X during visit (to assist with	X has responsibility for the JSC and is the best

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					search)	placed to assist with our attempt to take possession of files. I will therefore visit him and seek his assistance
X84	Search Policy - Book 1	5	09 November 2007 15:00:00	HARPER	To enter JSC offices with X who is there on visit re remembrance Sunday and to take possession of files required	To obtain evidence – X will be able to instruct staff to assist
X84	Search Policy - Book 1	6	15 November 2007 10:00:00	HARPER	To visit Chief Officer of Health and SS Dept and to persuade him to authorise handing over of all files from Haut de la Garenne	Previous indications of difficulty with children's service and the fact that some staff are suspects
X84	Search Policy - Book 1	7	26 November 2007 15:30:00	HARPER	To approach CO of health to obtain files and records relating to [X] at the time X was allegedly detained in solitary for 2 months. To do 27/11	To secure evidence either of the solitary confinement re any attempt to hide H
X84	Search Policy - Book 1	8	24 January 2008 15:00:00	HARPER	Clarify position in respect of the bones found and which are thought to be animal. Trace pathologist and evidence	To enable decision to be taken on areas to be searched within grounds
X84	Search Policy - Book 1	9	01 February 2008 13:00:00	HARPER	To prioritise area of search to outside of grounds	Intelligence re inside whilst accurate did flag up that bones were probably animal. This was confirmed by

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						pathology lab (although report poor in detail). Intelligence re outside still to be tested - will have to be done by exploratory search
X84	Search Policy - Book 1	10	05 February 2008 16:00:00	HARPER	To commence exploratory search of external grounds of HDLG on 19/2/08 and to include specialist dogs, forensic archaeologists and NPIA staff	To recover any evidence there
X84	Search Policy - Book 1	11	11 February 2008 09:00:00	HARPER	To disclose to Chief Exec details of search and to obtain keys for property from him	To ensure security
X84	Search Policy - Book 1	12	20 February 2008 12:00:00	HARPER	To put specialist dog into HDLG interior and to approach area where bones were found from elsewhere to gauge its potential as site. If positive to follow up with GPR and rest of site.	Intelligence received from [X] which casts doubt on assertion that bones were animal. He recalls cloth material and 2 child's shoes found with bones. Also told us that first pathologist said they were human. Additionally path report lacking in detail and anthropologist X states pathologist not qualified and should have

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						handed on
X84	Search Policy - Book 1	13	21 February 2008 13:05:00	HARPER	To dig under concrete floor in area of stairs and have it forensically examined	GPR confirms anomalies under floor. This and the other intel/info makes it necessary to do so to obtain any evidence there. Other intel into includes dog indications
X84	Search Policy - Book 1	14	23 February 2008 10:30:00	HARPER	To release limited information revealing find of possible human (partial) remains and to at same time widen search and use of technical aids to widen area including courtyard	(see decision re media release at decision 8). Partial remains of childs skull found. Other indications from GPR and dog indicate possibility of further remains. This is corroborated by unspecific anecdotal evidence from victims/former residents. Search must now be widened even if necessary to disrupt fabric
X84	Search Policy - Book 1	15	24 February 2008 10:10:00	HARPER	To excavate/search all areas inside and out where indications of dog are corroborated by or corroborate other	To ensure that all evidence is recovered and that suggestions of

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					intel/evidence such as GPR, expert advice or info/intel from public	human remains at location are confirmed or negated
X84	Search Policy - Book 1	16	12 March 2008 12:00:00	HARPER	Not to excavate total area of courtyard but instead to concentrate on defined area at top (NW) corner of the yard and have it examined in detail by specialist staff	Intelligence does not justify action on whole area. Dog reacted only in the area where it is intended to excavate. Area of tank can be inspected by divers. Should initial action reveal significant evidence then decision to be reviewed
X84	Search Policy - Book 1	17	12 March 2008 12:00:00	HARPER	Only to investigate suspended floors where intelligence exists to raise questions about presence of evidence. This will be mainly in area of cellars	To produce realistic parameters and to maintain intelligence led approach to search
X84	Search Policy - Book 1	18	25 March 2008 13:00:00	HARPER	To freeze and seal rooms 3 + 4 in cellar until after rooms 1 + 2 are complete including drains leading from bath	To preserve integrity of scene in all areas
X84	Search Policy - Book 1	19	25 March 2008 15:00:00	HARPER	To confine excavation of suspended floor areas to the east wing	No evidence, anecdotal info or intelligence to justify further excavation of areas in west wing
X84	Search Policy -	20	25 March 2008	HARPER	To retain exhibits found at HDLG at that location until FSM can complete one	To enable more efficient handling of

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Book 2		15:05:00		statement detailing all	exhibits forensically
X84	Search Policy - Book 2	21	25 March 2008 16:00:00	HARPER	Dog and GPR to be utilised in cellar areas 3 + 4. If positive then we will excavate. Drain in 1 + 2 to be left until after that work. Forensic sieving to be undertaken	Retrieve evidence and to minimise possible destruction of same
X84	Search Policy - Book 2	22	29 May 2008 13:10:00	HARPER	To request a forensic review through NPIA	To audit processes and ensure enquiry is dealing with forensic evidence appropriately
X86	Site 2 policy book	1	03 July 2008 11:00:00	OFFICER X	Further to decision 19 + 20 in main lines of enquiry book 2 – search strategy – Victoria tower bunker site - with the assistance of national trust clear the site of undergrowth – conduct a search by police search team of relevant areas around the bunker perimeter under a search scenario of buried victim (police search team to be assisted in this task by victim recover dog) – POLSA in conjunction with dog handler will task the victim recover dog to search other relevant areas if deemed necessary following initial survey – search strategy – consideration to be given to the deployment of police search team to search any voids within the bunkers - all search activity is to be agreed in advance with forensic science manager	None given

Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					– X	
X86	Site 2 policy book	2	03 July 2008 15:00:00	OFFICER X	Forensic Strategy - to gain access to the bunkers considered to be of interest and carry out a forensic search	To determine where possible the following: - identity of person(s) trying to gain entry in 2008 – evidence of physical assault – evidence of sexual assault - evidence of clandestine disposal of human remains (remains and supporting evidence to be recovered with approp experts) – to submit evidence where appropriate for further testing. Forensic examination to include the following – visual examination – complete photography of site – search for items of evidential value – UV light search – quasar search if appropriate – blood screen – recording of scene using laser scanning if deemed

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
						appropriate – deployment of EVRD
X87	Sensitive Policy Book	1	25 October 2007 14:30:00	OFFICER X	To obtain subscriber details, billing and text messages for persons of interest in sea cadets, including [named persons]	To ascertain any relationship between the subjects and capture any contact which may assist in implicating or eliminating them from involvement in any offences
X87	Sensitive Policy Book	2	01 October 2007 No time given	HARPER	There will be two digital/computer based intelligence logs 1) for Haut de la Garenne (HDLG), 2) For Jersey Sea Cadet Corps (JSCC) Any intelligence gathered during the course of this investigation shall be recorded onto these logs. The relative intelligence will be kept separate from the other log, i.e., HDGL intel to HDLG log and ditto for JSCC. This in order to add resilience against cross contamination of intel and provide a sterile barrier between the two different institutions. This policy does not replace or undermine the existing victim/witness policy but adds resilience and support to it	None given
X87	Sensitive Policy	3	01 October 2007	HARPER	All intelligence gathered from a source by either written correspondence (e-	Provides for transparency but is

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
	Book		No time given		mail, letter) telephone or personally shall be recorded in the 1st instance in a 'cold calling intelligence book' prior to going directly onto the computerised intelligence log. This book will be exhibited as 'sensitive' and 'non discloseable' and be an original document. Each entry shall be signed by the maker and timed and dated. This can be completed in hand	complimentary to the requirements of data protection, human rights and supports the need to get to the truth of the matter
X87	Sensitive Policy Book	4	01 October 2007 No time given	HARPER	There will exist a system of gathering information, intelligence and evidence within the office of Operation Rectangle (see attached flow chart and explanation). To maintain the highest integrity and transparency throughout the enquiry and provide a professional and efficient system of information gathering which is compliant with data protection rules, human rights and PPACE 2003 and any other relative legislation and internal policy	None given
X87	Sensitive Policy Book	5	10 October 2007 No time given	HARPER	A computerised intelligence will be completed and signed off at the end of each month and a new log will commence. This will not replace the previous log but will be an addition to it	To add cohesion and accessibility to the auditing system and prevent a log from running on infinitely. This adds transparency and ease of recording

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning and reference
X87	Sensitive Policy Book	6	10 October 2007 No time given	HARPER	A second cold call intelligence book will be maintained and comprise intelligence that is non discloseable eg police on police etc	To prevent sensitive issues being recorded alongside non sensitive and thereby making P11 applications difficult to process
X87	Sensitive Policy Book	7	07 December 2007 10:30:00	OFFICER X	To use a stand alone, sterile laptop computer for intelligence analysis purposes	Security of intelligence, prevent unauthorised access (this has not proven possible from an IT perspective – await outcome of RA – OFFICER X 12/12/07)
X87	Sensitive Policy Book	8	12 December 2007 16:00:00	OFFICER X	To undertake a risk assessment of the operation	To ensure appropriate control measures are put in place with regard to the following potential areas of impact – physical, legal, assets, information management, compromise, environment
X87	Sensitive Policy Book	9	14 December 2007 10:45:00	OFFICER X	Further to decision 1 to consider obtaining billing and text messages for suspects if appropriate and in order of	As per decision 1

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Exhibit	Policy File	Decision No.	Date and Time	Officer making decision	Decision	Reasoning
					priority as dictated by decision 3 – persons of interest/suspect policy	
X87	Sensitive Policy Book	10	04 January 2008 14:00:00	OFFICER X	Further to 7 December and in light of decision to move enquiry to HOLMES and the risk assessment conducted, the intelligence cell is to move to the inner sanctum of MIR to enhance the security of the intelligence. In addition the laptop has now been fitted with encryption and will link direct into HOLMES which has its own enhanced security measures	None given
X87	Sensitive Policy Book	11	20 February 2008 09:00:00	HARPER	Not to keep Dep PRYKE updated or informed of any discovery despite request and advice to do so by Chief Minister	Security and need to know

Appendix 4 – Witness list

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Appendix 5 – Glossary of terms

Acronym	In Full
ACO	Acting Chief Officer
ACPO	Association of Chief Police Officers
ACPOS	Association of Chief Police Officers Scotland
ADCO	Acting Deputy Chief Officer
AG	Attorney General
CC	Chief Constable
CI	Chief Inspector
CIA	Community Impact Assessment
CID	Criminal Investigation Department
CO	Chief Officer
COM	Council of Ministers
CPS	Crown Prosecution Service
CSB	Community Safety Branch
CSM	Crime Scene Manager
DC	Detective Constable
DCI	Detective Chief Inspector
DCO	Deputy Chief Officer
DI	Detective Inspector
DNA	Deoxyribonucleic Acid

Acronym	In Full
DS	Detective Sergeant
DSIO	Deputy Senior Investigating Officer
ECHR	European Court of Human Rights
ESG	Executive Strategy Group
FAB	Finance Advisory Board
FLO	Family Liaison Officer
FMB	Force Management Board
FOB	Financial Oversight Board
HAD	Home Affairs Department
HAM	Home Affairs Minister
HAT	Historic Abuse Team
HCAE	Historic Child Abuse Enquiry
HDLG	Haut de la Garenne
HMIC	Her Majesty's Inspectorate of Constabulary
HOLMES	Home Office Large and Major Enquiry System
HR	Human Resources
HWG	Homicide Working Group
IAG	Independent Advisory Group
IT	Information Technology
JIB	Jersey Intelligence Bureau
JFCU	Joint Financial Crime Unit

Acronym	In Full
JSCC	Jersey Sea Cadet Corps
LGC	Laboratory of the Government Chemist
MIM	Murder Investigation Manual
MIR	Major Incident Room
MIRSAP	Major Incident Room Standard Administrative Procedures
MISML	Major Incident Scene Management Log
MOFM	Monthly Operational Finance Meeting
NIM	National Intelligence Model
NPIA	National Policing Improvement Agency
NSPCC	National Society for the Prevention of Cruelty to Children
PA	Personal Assistant
PC	Police Constable
PIP	Professionalising the Investigative Process
PNICC	Police National Information and Coordination Centre
POLSA	Police Search Adviser
PPU	Public Protection Unit
PRA	Performance Review and Appraisal
PS	Police Sergeant
PSD	Professional Standards Department
SB	Special Branch
SCG	Strategic Coordinating Group

Acronym	In Full
SCRG	Serious Crime Review Group
SIO	Senior Investigating Officer
SMT	Senior Management Team
SOCA	Serious and Organised Crime Agency
SOCO	Scenes of Crime Officer
SoJP	States of Jersey Police
TCG	Tasking and Coordinating Group
TOR	Terms of Reference