

STATES OF JERSEY



COMMITTEE OF INQUIRY: SUSPENSION OF THE CHIEF OFFICER OF THE STATES OF JERSEY POLICE

**Lodged au Greffe on 2nd February 2010
by the Deputy of St. Martin**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that a Committee of Inquiry should be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely the manner in which the Chief Officer of the States of Jersey Police was suspended from his duties on 12th November 2008 with particular regard to the procedures and documentation used in the suspension, the grounds relied on by the then Minister in taking his decision and his role and the role of other parties who were involved;
- (b) to appoint the following persons as members of the Committee of Inquiry –
 - (i) Mr. Derek J.C. Bernard, Chairman;
 - (ii) Mr. Gerard C.L. Baudains;
 - (iii) Mrs. Elizabeth Jane Allan;
 - (iv) Advocate Timothy Hanson;
 - (v) Mrs. Margaret Holland Prior, J.P.
- (c) to agree, in accordance with Standing Order 146(5)(b) and (c) –
 - (i) that Advocate Timothy Hanson shall, if required, preside in the absence of the Chairman, and
 - (ii) that the quorum of the Committee shall be 3.

DEPUTY OF ST. MARTIN

REPORT

The provisions of Article 9(4) of the Police Force (Jersey) Law 1974 require that the debate on this proposition must be *in camera*. It therefore follows that the contents of this report only contains matters which are in the public domain.

This proposition seeks to address continuing concerns regarding the suspension of the Chief Officer of Police and affords the House an opportunity to exercise its legitimate function of holding Ministers to account.

While concerns have been expressed for a variety of reasons, there are three areas which have given rise to the most significant concerns.

Firstly, it has been admitted that the Chief Executive destroyed the original record of the suspension meeting.

Secondly, the Royal Court in a judgement given on 8th September 2009 expressed its *“serious concern at the fairness of the procedure apparently adopted by the Previous Minister. He was dealing with the person holding the most senior position in the police force who had enjoyed a long and distinguished career. Bearing in mind the implications of suspension, we would have thought that fairness would dictate firstly Mr. Power being given a copy of the media briefing and Mr. Warcup’s letter and secondly an opportunity to be heard on whether there should be an investigation and, if so, whether he should be suspended during that investigation.”* (Judgement paragraph 19.) In considering the implications of the Royal Court judgement members may have been misled by a statement which sought to imply that the Court had in some way found that the current Minister was “right” in maintaining the suspension. In a Judicial Review a Court will determine whether a Minister acted lawfully and within his powers. One test of this is “procedural fairness.” Courts do not pass judgement on the wisdom or cost-effectiveness of Ministerial decisions, only their legality. Thus the Court found that *“the procedure adopted by the Minister in conducting his review was procedurally fair, in contrast we have to say, to the procedure apparently adopted by his predecessor in November 2008,”* (paragraph 63.) Having considered all of the evidence the Court finally concluded that *“there has been no abuse of the Ministers powers,”* (paragraph 65.) It is suggested that members do not become distracted by the decision of the Court in the Judicial Review. This proposition is about the actions of the then Minister and others in November 2008 and what may have been done subsequently to conceal the truth of those events. The finding that the current Minister acted within his legal powers at a subsequent review is not relevant to the purpose of this proposition.

Thirdly, following a Complaints Board hearing, information has come to light which casts significant doubt over the sequence of events given in the original account of the suspension. The then Minister for Home Affairs claimed, and it is understood that he continues to claim, that he acted on the basis of a report he received on the 11th November 2008 and had no concerns prior to that time. It has now been disclosed that the suspension documents were in fact prepared on the morning of the 8th November 2008. The fact that the suspension documents were prepared three days before the Minister says that the evidence was received is cause for concern in itself. However, 8th November 2008 was a Saturday. Senior public servants are not famous for working on Saturdays. It is legitimate to question what gave rise to such an unusual event and who requested or authorised the work done on that day. In considering the

issue of the timing of the documentation members may also wish to take into account the persistence shown by the current government in resisting the disclosure of this information. The times and dates on which the suspension documents were created was first asked for by the Chief Officer in a written request dated 17th November 2008. At that time, and on a number of subsequent occasions, the release of the information was resisted by the Chief Minister or those acting on his behalf. Members may wish to consider to what extent this behaviour is consistent with what is claimed as being a “neutral” suspension. The matter remained unresolved until a hearing held under the Administrative Decisions (Review) (Jersey) Law 1982 held on 16th September 2009. At the hearing the Chief Officer represented himself while the Chief Minister was represented by the Law Officers Department. This was in spite of the purported “neutrality” of the suspension. The hearing nevertheless subsequently produced a finding in favour of the Chief Officer. The persistent attempts by the Chief Minister to prevent the release of this information have inevitably led to speculation regarding a possible “conspiracy” or “cover up.” Acceptance of this proposition should help to establish whether such claims have any justification or alternatively, whether the actions of the Chief Minister were fully consistent with the expectations associated with his position. Either way, the truth should do no harm to those with nothing to fear.

Additional matters which members may find helpful in considering the proposition include that fact that the decision to suspend was taken by a Minister for Home Affairs, apparently in consultation with a Chief Minister, at a time when both were within days of leaving office. Members may wish to reflect on the constitutional significance of such a far reaching decision being taken in such circumstances and whether this identifies any need to consider whether a protocol or guidance may be required to assist in future decisions of such magnitude taken in similar circumstances. It may also be relevant that the evidential basis for the suspension was said to be the interim findings of a report from the Metropolitan Police. The current Minister for Home Affairs has stated that the Metropolitan Police subsequently withdrew that report for any purposes associated with discipline or suspension. This may be an indication that the Metropolitan Police, in preparing their report, were not fully informed, or may even have been misled, as to its intended purpose. Acceptance of this proposition may help to clarify this issue.

It is important to separate the discussion of this proposition from matters which are not directly relevant to the decision which the House is being asked to take. For example, the guilt or innocence of the Chief Officer in respect of any disciplinary issues is not relevant. He is entitled to be regarded as innocent until proven guilty. In any event, even a guilty person is entitled to fair treatment and due process. That is one of the foundations of our system of justice.

Equally, the conduct or culpability of any politicians or public servants involved in the suspension is not a matter on which we should allow ourselves to be distracted. They too are innocent until proven guilty. The rules of confidentiality which govern their duties have so far prevented them from responding in a public way to some of the understandable criticisms which have been made. It is possible that they all have a full and innocent explanation to offer for their actions. Until they have the opportunity to give their account we will not know. Their guilt or innocence is not a concern of the House at this time. What I am proposing is that we should simply attempt to find out the truth. What we do with the truth when it is discovered is another question for consideration at a later date.

Finally, on the topic of potential distractions, we should not allow ourselves to be sidelined by promises or commitments regarding any report which may result from the current enquiries by Wiltshire police. While members have been denied access to the terms of reference of the Wiltshire enquiry it is known that some members have made their own enquiries and are now familiar with the terms of reference agreed between the Minister and Wiltshire. The role of the Wiltshire enquiry is clear enough. They are to search for evidence of any misconduct by the Chief Officer. Their mandate does not cover the original suspension or the conduct of any other person. The fact that their enquiries commenced in December 2008 and in January 2010 they have not yet completed a final report may be an indication as to whether any alleged failings are as apparent, or straightforward, as members may have initially been encouraged to believe. What opinions Wiltshire may or may not offer in due course regarding the Chief Officer is irrelevant to this proposition. For example, should Wiltshire offer a view which is critical of the Chief Officer, this would not justify or redress any injustice or unfair treatment which may have occurred at the time of the original suspension. Nor does it absolve any misconduct on the part of those involved in the suspension. To argue otherwise would be to argue that the end justifies the means. This again would run contrary to the basic principles of justice which are claimed to apply to the conduct of government. It may be helpful to members to be reminded that on 13th January 2010 the Chief Minister stated in a letter that speculation regarding a possible conspiracy regarding the suspension “*does demonstrate to me the need for a full and impartial enquiry to be carried out by an experienced external authority.*” He then went on to suggest that Wiltshire Police were such an external authority. The Chief Minister appears to have made this assertion in the mistaken belief that the suspension fell within the remit of the Wiltshire enquiry. Now that is clear that this is not the case, the Chief Minister’s written acceptance of the need for a “*full and impartial enquiry*” remains to be addressed. It is proposed that the stated needs of the Chief Minister be met by means of this proposition.

The suspension of the head of a police force is a serious matter. The guidelines issued by the Home Office to police authorities in England and Wales state “*A senior Officer should only ever be suspended from duty where this is required for the maintenance of public confidence in the force. Suspension is a grave matter and the authority or the Secretary of State will need to make a judgement about whether suspension would enhance or diminish public confidence.*”

In Jersey this formidable power is vested in one individual, the Minister for Home Affairs. I know of no comparable jurisdiction in which one person exercises such unfettered authority. It is the duty of this House to hold the Minister to account for his exercise of his powers, and I submit that in the circumstances the test which we should apply should be a demanding one. We should require that the minister conducts himself in a way which is above reproach. Given the seriousness of the matter no lesser standard should suffice.

Nobody should be unaware of the public concern and interest which has surrounded this case from the onset. There has been widespread speculation regarding the motives, and indeed the integrity of some of the people involved. This speculation may have some justification or it may be totally false. There can however be no denying that it exists. I am recommending that we bring this speculation to an end by seeking to establish the truth. It is a simple and common-sense thing to do. If this is

not a case for the House exercising its authority in this way then it would be difficult to think of a case which did.

In addition to all of the above we should continue to be mindful of the financial cost which has arisen from this issue. On the basis of information released so far it appears that the costs to date are around £700k and rising towards £1 million. Costs are continuing to rise irrespective of the fact that the Chief Officer has already submitted notice of his retirement. An independent review may be able to identify whether, whatever the issues of concern, a more cost-effective solution could have been considered.

The reputation of both our Government and of our ability to properly conduct our public affairs has been damaged. It is for Members to repair that damage by agreeing the quick, relatively inexpensive, and sensible solution set out in this proposition.

Should the States approve the review, I propose that it should be carried out by the people shown in the second part of my proposition. In fairness to all the people involved with the suspension the sooner the matter is dealt with openly and fairly, the better and it is hoped that it would be conducted within 4 months of States approval.

A short biography of each proposed member is included in the Appendix.

Manpower and financial implications

The Members of the proposed committee will all perform their task on an honorary basis. However there will be costs involved in carrying out a public inquiry, but such is the public concern over this issue; I believe the public will accept that it will be money well spent.

The costs will depend upon the level of officer support required. I would consider that seconding an officer on a part-time basis should cost in the region of £10,000 for the period of the Inquiry and I consider that a prudent provision for sundry expenditure of £5,000 would be appropriate. The Minister for Treasury and Resources is required, in pursuance of Standing Order 150(c), to give direction as to how the above expenses should be funded.

Biographies

Mr. Derek J C Bernard

Resident in Jersey since 1977. After training as an engineer with De Havilland Aircraft Co., worked with Lotus Cars for 7 years. Since 1970 has been focussed on selecting innovative ideas for development, patenting and licensing; since 1982 in his own company, Transmission Systems Ltd. Chairman of the Island Games Association of Jersey 1992 – 2004; Chairman of the Institute of Directors, Jersey Branch, 1996/9; President of the Jersey Pistol Association 1989 – '99.

Mr. Gerard Baudains

Educated Victoria College. Further education locally and at Farnborough Technical College whilst working on military vehicle development. Worked locally in engineering and started his own engineering business in 1975. Put this on hold whilst serving as States Deputy from 1998 to 2008.

Mrs. Elizabeth Jane Allan

Born in Sheffield, resident in Jersey since 1968. Primary teacher in a number of schools from 1968 to 1993. Seconded to the Education Department 1993 to 2009 to perform various roles particularly as Advisory teacher for special needs. Member of St. John Ambulance from 1975 to date and Commissioner (Operations) since 2006.

Advocate Timothy Hanson

Timothy Hanson is a partner in Jersey law firm Hanson Renouf (www.hansonrenouf.com) an advocate of the Royal Court of Jersey and an English barrister. His memberships include ACTAPS, STEP, ELA, PNBA, FLBA and the editorial board of the Jersey and Guernsey Law Review. He was born in 1966 and educated at St. Michael's Preparatory School, Victoria College and then Kingston University before being called to the English bar in 1989. He practised as a barrister in London and Birmingham for 12 years before returning with his wife to Jersey. Whilst he continues to practise as an English barrister from No. 5 Chambers (Chambers of Ralph Lewis QC) his career is now predominantly as a Jersey advocate.

Mrs. Margaret Holland Prior, J.P.

Came to Jersey as a small child. Trained and worked in London as a fine art restorer before joining a major group of U.K. timber importers, manufacturers and distributors as market researcher internationally. Organiser of the U.K. Awards for design and timber construction for 13 years. Magistrate and a Deputy Chairman of The City of London Magistrates' Bench over a period of 19 years. Clerk of The Worshipful Company of Fire-fighters, taking that Company through to full Livery status. A member of The Court of The Gardeners' Company. Co-ordinator of St. Brelade in Bloom, Chairman of St. Aubin Residents' Association and Initiator of Jersey Stop the Drop Campaign.

APPENDICES

1. Article 9 – Police Force (Jersey) Law 1974
2. Disciplinary Code for the Chief Officer of Police
3. Statement by the Minister for Home Affairs regarding the suspension of the Chief Officer of States of Jersey Police made to the Assembly on 2nd December 2008.
4. Letter from Chief Officer to PPC dated 30th October 2009 and response dated 13th November 2009
5. Email from Deputy of St Martin to Chief Minister dated 10th January 2010
6. Letter of reply from Chief Minister dated 13th January 2010
7. Email from Deputy of St Martin to Chief Minister dated 15th January 2010
8. Letter of reply from Chief Minister dated 22nd January 2010
9. Email from Deputy of St Martin to Chief Minister 25th January 2010

ARTICLE 9 – POLICE FORCE (JERSEY) LAW 1974

“9 The Chief Officer and Deputy Chief Officer

- (1) The Chief Officer shall be appointed by the States on such terms as to salary and conditions of service as the States Employment Board may from time to time determine.
- (2) The Chief Officer may be suspended from office by the Minister who shall refer the matter to the States at their next Sitting and may be dismissed from office by the States.
- (3) The Chief Officer 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.
- (4) Any discussion in the States regarding the appointment, suspension or dismissal of the Chief Officer shall take place *in camera*.
- (5) The Deputy Chief Officer shall be appointed by the Minister on such terms as to salary and conditions of service as the States Employment Board may, from time to time, determine.
- (6) In the event of the absence, incapacity, suspension or vacancy in the office of the Chief Officer, the functions of that office shall be discharged by the Deputy Chief Officer.”

DISCIPLINARY CODE FOR THE CHIEF OFFICER OF POLICE

1. APPLICATION AND PRINCIPLES

- 1.1 In the normal course of events, the Home Affairs Minister will raise, and attempt to resolve, issues arising which concern the performance, conduct, capability, etc., of the Chief Officer on a personal basis. The procedure described in this Code will be used only where such efforts to resolve problems arising have failed.
- 1.2 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. DISCIPLINE PROCEDURE

2.1 Preliminary investigations

- 2.1.1 If circumstances arise where the Home Affairs Minister considers it justified, he will notify in writing the Chief Executive to the Council of Ministers, of any complaints relating to discipline, performance or capability against the Chief Officer. A copy of this letter will be given to the Chief Officer. At the discretion of the Chief Executive to the Council of Ministers, there may be a meeting between the Home Affairs Minister and the Chief Officer, to determine the requirement for the complaints to be pursued.
- 2.1.2 In the event that the complaints are pursued by the Home Affairs Minister, a preliminary investigation will be undertaken by the Chief Executive to the Council of Ministers, to establish the relevant facts. Facts will include statements from available witnesses and the Chief Officer. Following the investigation the Chief Executive to the Council of Ministers will produce a written report which will be given to the Home Affairs Minister and the Chief Officer. The results of the preliminary investigation will be discussed by the Home Affairs Minister, Chief Officer and Chief Executive to the Council of Ministers.
- 2.1.3 Where it is agreed that medical fitness is in question a separate procedure will apply to suit the circumstances.

2.2 Minor breaches of discipline or poor performance/capability

- 2.2.1 Minor breaches of discipline or poor performance/capability will be dealt with by the Home Affairs Minister, The Chief Officer will be given the opportunity to comment upon the complaint. If the Chief Officer considers it necessary, he will have the opportunity to be accompanied by a companion. In the event of the Chief Officer being accompanied, the Home Affairs Minister will have the support of a senior officer from the States Human Resources Department (other than the Director of Human Resources).

2.2.2 Minor breaches of discipline or poor performance/capability will be dealt with by recorded oral warning(s). These will give details of:

- i) the breach of discipline/poor performance/capability;
 - ii) the required remedial action;
 - iii) the period of review. In cases of poor performance/capability this will be of a sufficient time to allow the Chief Officer a reasonable opportunity to perform at the level required;
 - iv) any assistance that may be given to the Chief Officer; and
 - v) the likely outcome of further misconduct or shortfall in performance/capability,
- or such of the above as shall be deemed appropriate in any particular case.

2.2.3 Appeals against the above may be made to a panel consisting of the Home Affairs Minister and two members from the States Employment Board, whose decision will be final and will not be subject to Section 3 (below).

2.3 Continued or serious breach of discipline/poor performance/capability

2.3.1 If the preliminary investigation indicates that a more serious breach of discipline/poor performance/capability has occurred, or if the Chief Officer fails to improve and/or maintain improvements in conduct or job performance following the issue of oral warning(s), the issue will be considered by the Home Affairs Minister.

The hearing will be conducted by the Home Affairs Minister. The Minister will be advised by the Director of Human Resources.

2.3.2 The Chief Officer will be provided with, in writing, the following:

- i) sufficient notice of the hearing;
- ii) full particulars of the complaint;
- iii) a statement of rights under these procedures; and
- iv) details for the procedure for the hearing.

2.3.3 In more serious circumstances the Chief Officer may be suspended from duty on full pay by the Home Affairs Minister, pending the outcome of this procedure. In this event, the matter will be referred to the States of Jersey, in accordance with Article 9 of the Police Force (Jersey) Law, 1974.

2.3.4 At the hearing the Chief Officer may be accompanied by a companion.

2.3.5 The evidence (including documents, statements and calling of witnesses) in support of the complaint will be presented with the assistance of a senior officer from States Human Resources Department. The Chief Officer will be provided with the opportunity to present a response to the complaint (including the submission of documents, statements and calling of witnesses) and to respond to questions by the Minister. Witnesses may be questioned by the other party.

2.3.6 The Minister, or the Director of Human Resources, and the Chief Officer, or his companion will have the right to sum up at the end of the evidence.

2.3.7 In no case will the Minister hear one party without the other being present.

2.3.8 The Minister may choose to exonerate the Chief Officer or impose sanctions (see **Appendix**). The Chief Officer will be notified of the outcome in writing. The notification will state –

- i. details of the misconduct/poor performance/capability;
- ii. details of any sanctions and, where appropriate, the required remedial action for a period of review; and
- iii. where appropriate, the likely outcome of further misconduct/poor performance/capability.

3. APPEALS PROCEDURE

- 3.1 In the event that the Chief Officer is dissatisfied with the decision reached in the process described in Section 2.3 (above) he may appeal to a panel of three. The chairman will be agreed from a panel maintained by the United Kingdom Advisory Conciliation and Arbitration Service (ACAS). The other members will consist of one nominated by the Home Affairs Minister and one by the Chief Officer. The conduct of the appeal hearing will be the same as for the hearing under Paragraphs 2.3.4, 2.3.5, and 2.3.7 (above), except that submissions on behalf on the Home Affairs Minister may be made by the Minister and/or the Director of Human Resources.
- 3.2 The recommendations of the panel will not be binding on the Home Affairs Minister, but the Minister will take cognisance of them.

4. BREAKDOWN OF RELATIONSHIPS

- 4.1 It is possible that there could be an irrevocable breakdown in the special relationship that normally exists between the Chief Officer and his Minister.
- 4.2 In the event of the Home Affairs Minister feeling that the relationship with the Chief Officer is breaking down, he will bring it to the early notice of the Chief Officer and to the attention of the Chief Executive to the Council of Ministers, so that steps to improve the relationship can occur, or alternative action be taken.
- 4.3 If the procedure described in Paragraph 4.2 fails to resolve the problem to the satisfaction of the Chief Officer, the issue will be referred to a hearing as laid down in Section 2.3 (above).
- 4.4 This hearing will determine the appropriate course of action. In the event of the Chief Officer being dissatisfied he may appeal against the decision using the procedure described in the Section 3 above.

5. NOTIFICATION TO THE STATES OF JERSEY

Where, having exhausted the above procedures, the decision by the Home Affairs Minister is to dismiss the Chief Officer, the matter will be referred to the States of Jersey in accordance with Article 9 of the Police Force (Jersey) Law, 1974.

6. APPLICATION OF DISCIPLINARY ACTION

With the exception of warnings, any disciplinary action taken against the Chief Officer provided for under the above procedure must have the approval of the Home Affairs Minister.

APPENDIX

DISCIPLINARY CODE FOR THE CHIEF OFFICER OF POLICE

Whilst not exhaustive, the following forms of disciplinary action may be appropriate:

- recorded oral warning
- written warning
- final written warning
- alteration of duties and responsibilities
- suspension of pay for a specified period
- dismissal with notice
- dismissal without notice

APPENDIX 3

Statement by the Minister for Home Affairs regarding the suspension of the Chief Officer of the States of Jersey Police

This Statement gives me no pleasure but I wish to inform the Assembly in accordance with my powers under Article 9 of the Police Force (Jersey) Law 1974, on 12th November 2008 I suspended the Chief Officer of Police from duty pending an inquiry under the Disciplinary Code applicable to the Chief Officer. The terms of that code place on me obligations of confidentiality and there is little that I can say about this matter at this time. I can, however, say that pursuant to that code I have taken steps to put an investigation in hand into matters of concern and that investigation is part of a process that when completed will result in a decision on the part of my successor as to what steps should then be taken. I am sure that Members will entirely understand that it would be most inappropriate to discuss any of the substantive matters that caused me to suspend the Chief Officer and to initiate the procedure under the Disciplinary Code. I cannot comment on them and I would ask the Assembly not to seek to explore them at this time. At some stage at the end of the process, my successor, whoever it will be, will need to make a decision about these substantive matters and he or she should not be influenced in any way by any views expressed by Members of the Assembly. In addition, of course, the Chief Officer cannot comment and has not yet had the full opportunity that the process allows to answer to these matters and to defend himself. Any debate would thus be unfair to him as the full facts are not yet known. I am sure, however, that Members will readily understand that a suspension in these circumstances is a neutral act and implies no finding one way or the other, but is rather an entirely prudent course to preserve the integrity of the investigation. If the Assembly wishes to ask questions I will endeavour to be helpful, but I do not propose to answer any questions that will breach the obligations, confidentiality or that I will disclose the detail of any of the substantive matters under investigation.

Text of Chief Officer's letter to PPC and Reply

Graham Power

30th October 2009.

By hand

The Chairman,
The Privileges and Procedures Committee,
Morier House,
St Helier.

Dear Chairman,

Outcome of my appeal under the Administrative Decisions (Review) (Jersey) Law 1982. Complaint arising from the disclosure of information regarding the events preceding my suspension

This letter arises from the recent disclosure of information regarding the times and dates on which documents relating to my suspension from duty were actually created. You will be aware that this information was first requested by me in November 2008, and that its release has been consistently opposed by the Chief Minister and others. You will also be aware that as a result of a hearing before the Complaints Board under the above law, the information has now been released.

Enclosed with this letter are documents relevant to the complaint which will be set out below. It is believed that the documents are largely self explanatory and that it is not necessary to repeat the content in any detail. The relevant documents are:

- A copy of the document bundle setting out details of my appeal to the Complaints Board at a hearing on 16 September 2009, which was conducted in accordance with the law set out in the heading to this letter. My application to the Board related to the refusal of the Chief Minister to disclose details of the times and dates on which certain documents relating to my suspension from duty were actually created.
- A copy of the findings of the Board published on 14 October 2009 and presented to the States on 20 October 2009.
- A copy of a letter from the Director of Information Services dated 1 October 2009 providing the information requested in the initial application.

It is requested that the Committee study all of the attached documents in conjunction with this letter.

In my application to the Board I summarised what I described as the "Official Version" of the events which led to my suspension. I can find no record of any claim on behalf of the Chief Minister or others that the "Official Version" was not effectively summarised in my application. In brief, the "Official Version" of the sequence of events is that on 10th November 2008 the Deputy Chief Officer, Mr David Warcup, wrote to the Chief Executive, Mr Bill Ogle, expressing concerns

regarding aspects of the management of the Historic Abuse Enquiry, (document bundle page 28.) This was received on 11th November 2008 by Mr Ogley who, the same day, wrote to the then Minister for Home Affairs, Deputy Andrew Lewis, enclosing a copy of Mr Warcup's letter. (Statement of W Ogley, document bundle page 30.) In his statement to Wiltshire Police Mr Lewis states "*Up until (received the letter from David WARCUP, I had no reason to believe that they were not managing the investigation well*" (Statement of A Lewis, document bundle page 33.) The Minister for Home Affairs and the Chief Executive along with other Ministers and Civil Servants attended a presentation and briefing the same evening, given by Mr Warcup and the then Senior Investigating Officer, Mr Mick Gradwell. The briefing on 11th November 2008 is said to have given details of the content of a press briefing which was to take place the following morning.

Ministers and others have consistently put forward the claim that the decision to initiate the disciplinary process was taken in consequence of information which came to the notice of the Minister for Home Affairs in the form of the correspondence received, and the briefing given, on Tuesday 11th November 2008. I understand from States Members that this line has been repeated during "in camera" discussions of the suspension. I also understand that it is the line taken in response to States members who have made individual enquiries.

Following almost a year of requests and applications, information has now been disclosed in relation to the times and dates when documents relevant to the suspension were created. It is self-evident that the facts now disclosed are incompatible with the "Official Version" of events.

The Disciplinary Process relating to the Chief Officer is set out in Article 9 of the Police Force (Jersey) Law 1974 and in the Disciplinary Code for the Chief Officer of Police, which sets out the process to be applied in the exercise of powers under Article 9. A copy of the relevant Disciplinary Code is at page 13 of the document bundle.

It will be noted that no person other than the Minister for Home Affairs has any disciplinary powers in respect of the Chief Officer of Police, and that the disciplinary process can only be initiated by a letter from the Minister to the Chief Executive under paragraph 2.1.1 of the Code. The code does not appear to permit action on any other basis. Suspension powers are set out in paragraph 2.3.3 of the Code and are again, vested entirely in the Minister for Home Affairs.

It might now be appropriate to examine the information which has subsequently been disclosed. In the interests of consistency I have followed the sequence set out in the letter of the Director of Information Services dated 19 October 2009. All of the three letters referred to are dated 12th November 2008 and refer to information received on 11th November 2008. They can be found at page 21 of the document bundle. (It may be noted that the letters make reference to a review by the Metropolitan Police. The comments made in the review were subsequently withdrawn by that force in respect of their use for suspension or disciplinary purposes.) The information which has now been provided in relation to the three letters is as follows:

- The letter from then Deputy Andrew Lewis to Mr Ogley initiating disciplinary action under Para 2.1.1 of the Disciplinary Code

It is now disclosed that this was created at 1400hrs on Tuesday 11th November 2008. This is the day on which it is stated that Mr Ogley received the letter from Mr Warcup, which he forwarded to the Minister for Home Affairs the same day. The time of the letter does however precede the presentation and briefing which took place later that day.

- Letter from the Minister for Home Affairs notifying me that the disciplinary process had been commenced

It is now disclosed that this was created at 0844hrs on Saturday 8 November 2008. **This is three days before the receipt of the information which is claimed to have led to the decision to commence the disciplinary process, and three days before the creation of the letter from the Minister instructing the Chief Executive to take action under the Code.** Former Deputy Andrew Lewis in his statement to the Wiltshire Police investigation claims that he instructed that the letter be drawn up on Wednesday 12th November 2008 and he is supported in this claim by Mr Ogley. (Document bundle pages 32 and 31.) The disclosure reveals that these statements are untrue.

- Written notification that I was suspended from duty

It is now disclosed that this letter was created at 0845hrs on Saturday 8 November 2008. This date is **three days prior** to the receipt of the information which is alleged to have given rise to the suspension, and **four days before** the disciplinary meeting at which the Minister allegedly "decided" that I was to be suspended from duty. It should also be noted that the suspension letter was created three days prior to the letter which, under paragraph 2.1.1 of the code, is required to commence the disciplinary process.

While there remains uncertainty regarding some of the events surrounding the creation of the documents, it is evident that the "Official Version" of the decision-making process cannot now be sustained. The claim that the decision to suspend was a result of a proper process entered into in consequence of evidence viewed on 11th November 2008 is plainly false. Against this background and in the absence of evidence to the contrary, the following questions would appear to fall within the remit of the Committee:

- Whether any person in Government has made false and misleading statements to myself or persons enquiring on my behalf, during the suspension and disciplinary process which could have denied me my entitlement to fair treatment under the Disciplinary Code.
- Whether the proper preparation of my defence has been wilfully impeded by false information provided from within the Island's Government.
- Whether false and misleading statements have been made to the States and to those States members who have enquired about the integrity of the process.
- Whether any person has made a false statement to the disciplinary enquiry.
- Whether any person currently in office has been a party to a "cover up" of the facts which have now come to light.
- Whether any person who had a duty to ensure that processes conducted under the law and the disciplinary code were carried out in a proper and lawful manner, failed in that duty.

In the light of the disclosures, the real reasons for the suspension must be regarded as uncertain. Clearly this is an unsatisfactory position to be in after a year, and places me at an unfair disadvantage in the preparation of my defence.

The 1974 Police Law and the Disciplinary Code set out arrangements for the Political Oversight of the Chief Officer. There is a widely held view that these arrangements are imperfect. The absence of a Police Authority and of the checks and balances common in other jurisdictions are seen as significant defects. Nevertheless the Law and the Code, taken together, clearly identify the intention

of legislators that the power of suspension should be vested entirely with the Minister for Home Affairs, and that this power should only be exercised through due process and the proper consideration of evidence.

If Ministers and others have colluded in a common endeavour to frustrate the intentions of the Law and the Code and to produce a misleading account of events, then this would be a serious matter. In the course of the Complaints Board Hearing, which was held in public, I had an opportunity to respond to the Chief Ministers submissions on the question of public interest. In doing so I said *"Mr Chairman, if Ministers, assisted by Civil Servants, have, for whatever motive, put together a false account of events, and have produced paperwork and made statements to support that false account, and if others have subsequently become aware of what has been done, and have used their position to cover up the truth and attempt to prevent it from becoming known, then there is certainly an issue of public interest."* In setting out the reasons why I believed that the Board should support disclosure I said *"Finally on this issue, but certainly not least, there is the question of the integrity of government, and the degree of trust we can place in the statements made, and assurances given, by those in executive positions."* The Committee will be aware that the Board found in my favour.

The Code of Conduct for Ministers requires them to act in accordance with the relevant laws and procedures and emphasises the importance of providing *"accurate and truthful information to the States"* (paragraph 3ii.) Additionally Ministers are required by the Code to be *"as open as possible about all the decisions and actions that they take"* (paragraph 3) and to *"conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Jersey,"* (paragraph 8.) The Committee will be aware that the States of Jersey (Powers, Privileges and Immunities) (Scrutiny Panels, PAC and PPC) (Jersey) Regulations 2006, provides the Committee with the relevant powers to investigate any alleged breach of the Code.

It may be that I have provided sufficient information to enable the Committee to consider a way forward on this issue. However, in the hope that it may be helpful, I will offer some personal thoughts and additional information which may assist.

On a straight reading of the available evidence it may occur to many people that the most likely probability is that the former Minister for Home Affairs knowingly provided an account which is distant from the truth. That may be the case, but there are other possibilities. One is that he was not the main author of the process. The known facts allow for an alternative explanation. That is, that the decision to suspend was in fact taken by others for motives of their own, and that the then Minister was brought in at the final stages to provide his signature, and thereby appear to legitimise a process which was conceived by others. Such an interpretation would of course raise the possibility of a "Government within a Government" in which unidentified and unaccountable individuals exercise power outside the parameters of the law. If that was the case then the constitutional implications would be significant. This would be particularly true in the context of a potential impact on the independence of a part of the Criminal Justice System.

In considering these issues the Committee might find it helpful to be alerted to the apparent relationship between the suspension, and what was said to the media and the outside world in general on Wednesday 12th November 2008. During the course of his enquiries on behalf of the Minister, the Chief Constable of Wiltshire has disclosed to me a number of documents. The two most relevant in respect of this issue are the draft media presentation script which was shown to me by Mr Warcup on 5th November 2008, my last working day before a short period of leave, and the script actually used on 12th November 2008. There are

significant differences between the two which must have resulted from changes made between 5th and 11th November 2008. For example, the draft script says *"It has never been suggested by the States of Jersey Police that Child Murder took place at Haut de la Garenne."* The script actually used in the briefings on 11th and 12th November 2008 says *"Statements which were issued by the States of Jersey Police suggested that serious criminal offences had been perpetrated against children and also that there was a possibility that children had been murdered, bodies had been disposed of and buried within the home."* Other differences between the scripts are of a similar nature. Against this background it is legitimate to consider another possible explanation for the actual sequence of events. That is, the decision to suspend was taken on or before 8 November 2008 by persons unknown for reasons at present unknown. The media script was then subjected to significant changes (I believe that "sexed up" is a popular term used to describe this type of process) in order to enable the Minister to claim that he took a decision after being shown the content of the presentation on 11th November 2008, and in order to conceal the real reason or purpose behind the action taken. This may or may not be what actually occurred. Until the truth is known we cannot be sure.

Finally, in assessing the integrity of Government actions in this matter the Committee may find it helpful to be reminded of the following:

- Although the Royal Court, in considering my application for Judicial Review, was not able to formally pass judgement on the initial suspension, it did say "we feel constrained to voice our serious concern as to the fairness of the procedure apparently adopted by the Previous Minister." (Published judgement of the Royal Court, paragraph 19.)
- It is a matter of public record that the Chief Executive has admitted destroying the original notes of the suspension meeting on November 2008.

Although there may be insufficient information to formulate specific complaints against named individuals at this stage, I hope that the Committee will agree that there is a sufficient basis to provide reason to believe that one or more persons at the heart of Government have used their positions in order to engage in a deliberate abuse of process, and have made false and misleading statements to conceal their actions.

I am aware that complaints which are specific against serving Ministers should be addressed to the Council of Ministers. However, given the difficulty in identifying who is responsible for what, and the possibility that one or more members of the Council of Ministers may or may not be implicated, the Committee may agree that the general complaint against the conduct of Government falls within its remit and merits further enquiry.

Although some of the facts remain in contention it is believed that the following are not in dispute:

- The suspension is almost one year old.
- The public cost is reported to be in excess of half a million pounds and rising.
- No disciplinary charges have been brought.
- No hearing has been called.
- No conclusion is in sight.

This matter is placed in the hands of the Committee in the belief that its remit covers the circumstances of this complaint and that the Committee will see the need to take further action. However, if the Committee considers that I should progress this matter by some other route then I will of course consider whatever is recommended, in consultation with my professional advisors.

I hope this is sufficient for your purposes at this time, and that you will ask if you need any further information.

Yours sincerely

Graham Power

Cc Dr T Brain. Chairman. Chief Police Officers Staff Association.
The Connétable of St Helier.

Privileges and Procedures Committee

Our ref: 1240/9(134)

Mr. G. Power



13th November 2009

Dear Mr. Power,

Outcome of your appeal under the Administrative Decisions (Jersey) Law 1982.
Complaint arising from the disclosure of information regarding the events preceding
your suspension.

Thank you for your letter dated 30th October 2009. I have been giving considerable thought to your enquiry and to whether the Privileges and Procedures Committee is able to assist you further.

Clearly, the process relating to your complaint under the above Law is complete, having been able to reverse the decision that you had complained about, and obtained the information you sought.

On page 3 of your letter, you list matters that you consider fall within the remit of the PPC. I'm afraid I am unable to agree that these do fall within the area that PPC covers. It is for the Council of Ministers to oversee the work of Ministers, and in this it is guided by the Code of Conduct for Ministers (R.14/2006) and through the Chief Minister, the work of officers supporting the executive function. PPC has authority to enquire into the conduct of a member where a complaint has been received, and in this is guided by the Code of Conduct for Elected Members to be found at Appendix 3 of the Standing Orders of the States of Jersey. Any complaint against a Minister or Assistant Minister acting in an official capacity would be dealt with under the procedure set out in R.14/2006.

I must also say that the PPC has no remit to investigate "a general complaint against the conduct of government" (your page 5). I appreciate that you are seeking a remedy, and I note that you copied your letter to the Connétable of St. Helier. It may be that he can assist you from a political perspective.

I am sorry that I can't offer more specific help in this matter but you will appreciate that Standing Orders determine the parameters within which PPC is able to work.

Yours sincerely,

Connétable de Ste Marie
Chairman, Privileges and Procedures Committee
jg.gallichan@gov.je

APPENDIX 5

Email sent to Chief Minister 10th January 2010

Dear Terry,

Below are two Voice for Children websites which contain a letter from Mr Power to PPC dated 30th October and the reply from the Chairman dated 13th November 2009. I would add that the letters have been subject to attention from the other media.

I write to express my deep concern not just at the contents of Mr Power's letter but also by the dismissive action taken by PPC's Chairman who appears not to have discussed the letter with her Committee.

As you will see Mr Power has made allegations regarding the untoward actions surrounding the events leading to his suspension which he is able to substantiate. I think it is important to remind you that in a statement read by the former Home Affairs Minister at the States Sitting on 2nd December 2008 in relation to Mr Power's suspension, the Minister said, and I quote " *In addition, of course, the Chief Officer cannot comment and has not yet had the full opportunity that the process allows to answer to these matters and to defend himself. Any debate would thus be unfair to him as the full facts are not yet known. I am sure, however, that Members will readily understand that a suspension in these circumstances is a neutral act and implies no finding one way or the other, but is rather an entirely prudent course to preserve the integrity of the investigation,*"

A neutral act should by definition be neutral with neither side impeding the integrity of the investigation which should be conducted in an even handed and transparent manner. Also before any suspension is implemented those responsible for the implementation should be above reproach. Clearly from the contents of Mr Power's letter the integrity and motives of those involved with the suspension are highly questionable. It would appear that there is substance to Mr Power's observation that the actions of a number of people raises the possibility of a " Government within a Government" in which unidentified and unaccountable individuals exercise power outside the parameters of the law.

You are aware that the Chief Executive has admitted to destroying the original notes of the suspension meeting on 12th November 2008. Also although the Royal Court, when considering Mr Power's application for Judicial Review was unable to formally pass judgement on the initial suspension, it did say "*we feel constrained to voice our serious concern as to the fairness of the procedure apparently adopted by the previous Minister.*" In page 4 of his letter Mr Power makes reference to significant differences between two media scripts which have come to light by the Wiltshire Constabulary. There appears to have been an alteration to a script drafted on 5th November 2008 and the one actually used at the briefings a week later. It may be pure co-incidence but the person involved with both scripts had much to gain from Mr Power's removal from Office.

I believe you should already be in receipt of the exchange of letters between Mr Power and PPC and considering the action to be taken.. However to give you the benefit of the doubt I ask that you read the letters below and ask yourself if you can allow for such damning evidence to be put aside. I remind you that the suspension has been claimed to be a neutral act. For many months Mr Power was denied details of the dates of documents which he eventually obtained via a successful application to the Complaints Board. It should be recalled that you personally defended the request for the details at the Hearing. Where was the neutrality? Mr Power had not been charged with any offence.

Home Affairs engaged the services of the Solicitor General to oppose Mr Power's application for a Judicial Review of his suspension. Where is the neutrality? Mr Power had not been charged with any offence.

You and the Council of Ministers successfully opposed the Connétable of St Helier's proposition (P182/2008) to request the Minister for Home Affairs to commission a compliance check on the procedures followed by his predecessor in suspending Mr Power, Where was the neutrality? Had you supported the proposition, not only might an honourable and decorated man and his family have been spared the stress and uncertainty, but also the States might have saved in excess of a million pounds on Royal Court and Complaints Board Hearings, costs to cover Mr Power's suspension and the ever rising cost of the Wiltshire Constabulary investigation. Also at stake is the Island and Government's integrity and reputation.

Mr Power's suspension issue has been running since 2008 against a background of extensive publicity little of which has reflected well on the island or its government. If one of the original aims was to protect the reputation of the island then this has clearly not been achieved. It is now a matter of public knowledge that Mr Power is to retire sometime this year, if the object of the exercise was to remove him from office then this exercise now appears to be pointless. He is to leave the service this year anyway and against that background, any disciplinary action, which has not yet been decided upon let alone started, would appear to be pointless. This whole matter has now been "drifting along" since 2008. It appears that Ministers are oblivious to the human cost to Mr Power and his family and the financial cost to the taxpayer.

The issues raised by Mr Power are too important to ignore and it would appear that they are pointing towards a conspiracy at the highest levels of Government, therefore immediate action needs to be taken to find a way forward. I must urge that you to show leadership and to "get a grip" before the matter runs further out of control and further damage is done and needless public expense is incurred. I would be grateful if you would inform me of your proposed actions by 5pm next Friday.

First blog contains Mr Power's letter to PPC.

<http://voiceforchildren.blogspot.com/2010/01/facts-evidence-untruths-and-is-somebody.html>

Second blog contains PPC's Chairman's reply

[://voiceforchildren.blogspot.com/2010/01/power-of-ppc.html](http://voiceforchildren.blogspot.com/2010/01/power-of-ppc.html)

Regards *Deputy Bob Hill, BEM.,*

**Letter from Chief Minister to Deputy of St. Martin dated
13th January 2010**

Chief Minister

Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 440400
Fax: +44 (0)1534 440408



13 January 2010

Deputy B Hill BEM
Catel Cottage
Rue du Catel
Rondin
Trinity
JE3 5HA

Dear Deputy Hill

SUSPENSION OF CHIEF OFFICER OF POLICE

I refer to your e-mail of 10th January, copied to all States members and local media.

May I commence by stating that the contract of employment entered into by the Chief of Police requires that any disciplinary proceedings are conducted under terms of total confidentiality which preclude the parties from making any public comment. I intend to abide by the terms of that disciplinary code.

However your letter goes on to complain about the allegedly dismissive action taken by the Chairman of the Privileges and Procedures Committee. I do not intend to enter into those discussions and believe that the Chairman is well able to defend her actions if and when called upon to do so.

I will therefore limit my reply to answering the request you make in your final paragraph, where you suggest that the issues raised by Mr. Power point towards a conspiracy at the highest levels of government.

You will not be surprised to learn that I totally refute that suggestion. However it does demonstrate to me the need for a full and impartial enquiry to be carried out by an experienced external authority (such as Wiltshire Police), and why I would wish to base my judgement on the evidence produced and the conclusions reached by that investigation. I am aware of comments made that could be subject to challenge in terms of accuracy and these will be fully addressed as part of the Wiltshire investigation. Until such time, it is in my view unacceptable for one party to be making what could be seen as defamatory comments when there is a confidentiality agreement in place.

I too would like to have seen this matter resolved earlier, but as a former police officer you will be more aware than most Members of the speed at which such investigations seem to proceed. Clearly a person's character and livelihood are at stake here, and any investigation has to be totally thorough and transparent.

I am satisfied that the matter is in no way in danger of "running out of control", and I hope that the outcome of the investigation can be completed and published before too much longer.

Yours sincerely

A handwritten signature in black ink, appearing to be "Terry Le Sueur".

Senator Terry Le Sueur
Chief Minister

direct dial: +44 (0)1534 440585
email: chiefminister@gov.je
www.gov.je

Email dated 15th January from Deputy of St Martin to Chief Minister

Dear Terry,

Thank you for your letter dated 13th January. (above)

I note that you totally refute that the issues raised by Mr Power which point towards a conspiracy at the highest levels of government. Unfortunately you have not given any explanation as to how you came to that conclusion.

I claimed that you had not acted in an impartial manner by not providing Mr Power with the times and dates on which the suspension documents dated 12th November 2008 were actually created. Not only have you failed to explain why? but in addition you have provided no explanation as to why you maintained your stance for more than nine months until you had to disclose the information following Mr Power's successfully contested application to the Complaints Board.

However following the release of the details it now appears that the "official version" is at variance with the substantiated evidence provided by Mr Power. This revelation to the ordinary people of the Island could cause them to believe that the reason you refused to act impartially and suppress the information was because you were protecting the authors of the letters. It must be apparent that the statement read to Members at the States Sitting on 2nd December 2008 was inaccurate and misled Members.

You state that you are satisfied that the matter is in no way in danger of "running out of control" and hope that the outcome of the investigation can be completed and published before too much longer. Given that the investigation has already taken 14 months at a cost nearing a million pounds, it does appear that the matter has already run out of control.

You state that you are aware that comments made could be the subject of challenge in terms of accuracy and that these will be fully addressed as part of Wiltshire investigation. Nothing could be further from the truth. The mandate of the Wilts Police does not cover any aspect of the suspension itself nor whether it was ever justified. Therefore the confidentiality requirements of the code do not apply to the suspension itself. For clarification the investigation is into the management of the enquiry. The suspension is "out of play" and accordingly does not fall under the code.

The one positive part of your letter is that you do agree that the comments made (in Mr Power's letter) could be subject to challenge in terms of accuracy and these will be fully addressed as part of the Wiltshire investigation. However as Wiltshire Police will not be investigating the suspension issue, the investigation must be undertaken by some other body.

You did not address Wiltshire Police's apparent pointless exercise in continuing with their investigation which in all likelihood will never be resolved because Mr Power will have reached retirement. I would like to know why the investigation should continue.

In my letter I did urge you to show leadership and this could be demonstrated by fully addressing the issues raised above and by lodging a proposition to investigate/review the circumstances of Mr Power's suspension. This would be in line with P182/2008 (Review of Procedure regarding suspension) lodged by Connétable Crowcroft. Or P131/2009 Exclusion of the Consultant Gynaecologist lodged by me in August last year.

I look forward to hearing your response within the next 7 days.

Regards

*Deputy Bob Hill, BEM,
Deputy of St Martin.*

APPENDIX 8

Letter from Chief Minister to Deputy of St Martin dated 22nd January 2010

Chief Minister

Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel: +44 (0)1534 440400
Fax: +44 (0)1534 440408



Deputy B Hill BEM
Catel Cottage
Rue du Catel
Rondin
Trinity
JE3 5HA

22 January 2010

Dear Deputy Hill

Suspension of Chief Officer of Police G Power

I refer to your further e-mail which I received on 15th January. I have little to add to my previous letter of 13th January and certainly do not intend to carry out a debate via e-mail.

Irrespective of the circumstances surrounding the original suspension of Mr. Power, I also have to take into account the reviews of that suspension carried out by the current Minister for Home Affairs, and more particularly the judgement of the Royal Court of Jersey in relation to the action brought by Mr. Power last year. That judgement made it quite clear that the ongoing suspension of Mr. Power was entirely justified, irrespective of whatever may have happened earlier. In the light of this, I see no reason for me to lodge a proposition such as you suggest.

In the light of Mr Power's announcement of his intention to resign I will give careful consideration to the status of the disciplinary investigations and the timing of the possible release of information relating to the Wiltshire investigations. I think it is important that the current disciplinary process runs its course. When that is concluded I hope that the outcome of the investigation can be put into the public domain.

Yours sincerely

Senator Terry Le Sueur
Chief Minister

direct dial: +44 (0)1534 440585
email: chiefminister@gov.je
www.gov.je

Email from Deputy of St Martin to Chief Minister dated 25th January 2009

Dear Terry,

Thank you for your letter dated 22nd January which is a response to mine dated 15th January. I believe in openness and that is why I circulate your letter and my response so that Members and the taxpayers are aware of the steps being taken to avoid the true circumstances being made known to them.

For reasons above I am not surprised that you do not want to openly discuss the issues via email because if you gave answers to my straight forward questions it would show that the events surrounding the suspension of Mr Power does give rise to serious concerns about the motives of those involved with the unsavoury action. In your letter to me dated 13th January, you have clearly stated and I quote "it does demonstrate to me that the need for a full and impartial enquiry to be carried out by an experienced external authority (such as Wiltshire Police), and why I would wish to base my judgement on the evidence produced and the conclusions reached by that investigation. I am aware of comments made that could be subject to challenge in terms of accuracy and these will be fully addressed as part of the Wiltshire investigation."

You have been made aware that the Wiltshire Police's terms of reference do not include the suspension matter, so why ignore the obvious by producing another red herring in the form of the Royal Court judgement which refers to Senator Le Marquand's role and not the initial suspension which the court had the following to say. "We are conscious that the Minister has not responded to these criticisms of Mr Power (because the events of 12th November are not the subject of the application) and that we should therefore be slow to criticise the way Mr Power appears to have been treated. However, we feel constrained to voice our serious concern as to the fairness of the procedure apparently adopted by the Previous Minister. He was dealing with a person holding the most senior post in the police force and who had enjoyed a long and distinguished career. Bearing in mind the implications of suspension, we would have thought that fairness would dictate firstly Mr Power being given a copy of the media briefing and Mr Warcup's letter and secondly an opportunity to be heard on whether there should be an investigation and, if so, whether he should be suspended during that investigation. Whatever disputes there may be as to precisely what occurred at the meeting with the Previous Minister, it is clear that no such opportunity was afforded to Mr Power. There is a stark difference between the way Mr Power was treated on 12th November and the way he has been treated by the Minister when the decision to suspend him was reviewed on 5th March 2009. "

I again remind you that the suspension is a "neutral act" and you can not jump in and out of your obligations to be neutral just because it is politically expedient. It is more than apparent that previous Ministers and current civil servants have not acted appropriately, nor in the interest of good government and fair play to all. If you really wanted to stand by your statement for a full and impartial enquiry because my "substantiated" comments could be subject to challenge in terms of accuracy, then you would have agreed to establish one your self. As you choose to abdicate your responsibilities, that will be left for others to do.

Regards

*Deputy Bob Hill, BEM.,
Deputy of St Martin.*