

STATES OF JERSEY

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JERSEY POLICE AUTHORITY: REVIEW

**Presented to the States on 22nd July 2003
by the Home Affairs Committee**

STATES GREFFE

INTRODUCTION

1. Members and others will be aware of the impasse that has developed in the establishment by law of a Jersey Police Authority (JPA). This has manifested itself in increasing frustration amongst some States members at the lack of progress. This paper covers the background to the present situation, the factors that have hindered progress, background information on police authorities in England and Wales, the Dumfries and Galloway model, a SWOT analysis of establishing a police authority in Jersey, other issues to take into account and provides options on the way ahead.
2. The States resolved to set up a JPA on the 19th May 1998, pre-dating the formation of a Home Affairs Department by 2½ years. It was always envisaged that the JPA would be a self-administering body independent of the administering Committee. At the outset, it was established as a shadow authority, although it soon became apparent that it lacked vital officer support. The last formal meeting of the JPA was held in September 2001 towards the end of Senator Lakeman's time as temporary Chairman, following which the difficulties in finding a replacement Chairman, which still exist, started to develop. When the Project Officer also resigned early in 2002, the proceedings of the JPA effectively ground to a halt. In the absence of anyone else able to progress matters – in particular the work necessary to find a replacement Chairman – the Home Affairs Department filled the void since it was envisaged that the JPA's conduit to the States would be through the Home Affairs Committee. However, given that the States had agreed that the JPA would be an independent body, this did not include progressing JPA business generally, although the Department has become the point of contact for the Honorary Police Trainer, a post set up by the JPA before formal business ceased.
3. It is important to be clear about what the States decided when it resolved to set up a JPA. Attached is a copy of the proposition, as amended, that was adopted on the 19th May 1998 (**Appendix 1**). Paragraph 1 of the proposition stated that the States:

“(1) approved the establishment by law of a Police Authority with _____ responsibility for _____

- (a) securing the maintenance of effective and efficient policing throughout the Island;
- (b) setting local objectives and performance targets for the States of Jersey Police Force and the honorary police;
- (c) issuing an annual report reflecting achievements, a policing plan and budget details to be presented to the States and published;”

AIM

4. The aim of this paper is to outline an alternative means of fulfilling paragraph (1) of the proposition approved by the States on the 19th May 1998.

BACKGROUND

5. The decision to set up a JPA flowed from one of the recommendations in the Report on the Policing of the Island, otherwise known as 'Clothier One', which was published in July 1996 by a Review Body chaired by Sir Cecil Clothier. On the 5th November 1996, the States charged the then Defence Committee with setting up a Working Party *“to consider whether, and to what extent, the... issues raised in the report by the Review Body are appropriate to the Island.”* The proposition adopted on the 19th May 1998 reflected the findings of the Working Party which had concluded that it *“supports the findings of the Review Body that the Island would be best served by the creation of an independent body with a broadly based membership including independents.”*
6. Like the Jersey Police Complaints Authority, the position of Chairman is honorary and Robin Rumboll held the post for the first 2 years. Much of the Authority's early work centred on two tasks:

- Preparing a law drafting brief for establishing the JPA by law (paragraph (1) of the proposition at Appendix 1).
 - Establishing how much current legislation would need amending in order that the Chef de Police would have charge of the honorary police within the parish, and that the Connétables could cease to fulfil an operational policing role (paragraph (3)(a) of the proposition at Appendix 1).
7. A Legislation Sub-Committee was set up and an outline law drafting brief was completed in June 2001. However, the necessary detailed drafting instructions remained outstanding and no further progress was made towards foundation of the JPA in law. A painstaking and thorough review of primary legislation was carried out by the Law Officers' Department which identified 96 separate pieces of legislation that would have to be reviewed if the roles of the Chef de Police and the Connétables were to change.
 8. Unfortunately, Mr Rumboll began to suffer ill health and eventually had to resign as Chairman. Senator Christopher Lakeman agreed to become the temporary Chairman on a caretaker basis in 2001 at about the time that the new Police Chief took up his post. During that period, effort concentrated on improving working relationships between the States and the Honorary Police with much success. A useful catalyst has been the expenditure of JPA funds on a training contract to deliver training to the Honorary Police on a range of important policing skills, e.g.: notebooks, arrest, court procedures, documentation, speed detection devices, first aid and, latterly, on the introduction of the Police Procedures and Criminal Evidence (Jersey) Law 2003. The training is being delivered by John De La Haye, a recently retired chief inspector.
 9. During this period, the shadow JPA also turned its attention to encouraging the establishment of a Chairman and Deputy Chairman of the Honorary Police, and to the proposed merger of the Centeniers' Association and the Association of Vingteniers and Constables' Officers (paragraphs (3)(b) and (3)(c) of the proposition at Appendix 1). The merger proposal was not favoured by the Associations and foundered. However, with the assistance of the Chairman of the Comité des Connétables, the Honorary Service went some way towards fulfilling proposal (3)(b) by establishing a new Committee of Chefs de Police and electing a Chairman and Deputy Chairman from among their number.
 10. Senator Lakeman had to relinquish his caretaker role in early 2002 when he took over the new Privileges and Procedures Committee. At the same time, the Project Officer, who had been in post less than a year, also resigned to pursue an alternative career. Despite a concerted effort by the Home Affairs Committee to find a new Chairman, this proved impossible throughout 2002 until a potentially high quality candidate expressed a strong interest in the post. He spent November 2002 seeing key people – constables, centeniers and the Chief Officer – but reached the conclusion that, in his view, Jersey did not need a police authority along the lines of the England and Wales model. He considered that a consultative body on policing matters would suffice whilst leaving political and financial responsibility with the Home Affairs Committee.
 11. The JPA's business has effectively been in abeyance since spring 2002 although, ironically, the initiative that it had been most proactive in establishing – professional training for the Honorary Police – continues to flourish and is much appreciated by the Honorary Service.

FACTORS THAT HAVE HINDERED PROGRESS

12. As a preface to the following section, the significant effort that has been expended in carrying out the work of the shadow JPA to date, particularly by those that have led it, should be acknowledged. For the first 2 years or so, the lead was taken by a lay Chairman who received no recompense for such a large commitment. Subsequently, the reins were held by a busy States member and professional lawyer at great cost to his time. Nevertheless, with the benefit of hindsight, the following factors, from which we should learn, appear to have hindered progress towards establishment by law.

Insufficient Application of Resources to Carry Out the Task

13. Paragraph (5) of the proposition at Appendix 1 “*charged the Defence Committee, in consultation with the Finance and Economics Committee, to ensure that sufficient funds are made available to support the work of the Authority.*” The budget for the JPA presently inscribed within Home Affairs is £39,400. In the years 2000, 2001 and 2002, the budget allocated was £88,000, £66,000 and £55,000 respectively. The Home Affairs Committee has therefore made significant sums available over the years for JPA running costs. The falling budget over the years is due to these resources not being expended by the shadow authority to take the work forward. The JPA was initially given Committee Clerk support until this was withdrawn. A minute secretary was then employed but it took until mid-2001 for the JPA to employ a Project Officer in order to take the complex legal work forward.
14. Future funding is an issue which will have to be addressed if the formation of a JPA, or an alternative body, is to proceed. The Hampshire Police Authority has a budget for FY 2003/4 of £1 million against the Constabulary budget of £247 million. Applying a pro rata calculation to our Police budget would mean a JPA budget of £80,000. However, taking into consideration our lack of economies of scale, it is likely that there may be a minimum staff level necessary for a police authority whatever size of constabulary is being supported and to take account of local factors. For example, it may be necessary to employ an officer to support the Honorary Police in the preparation of policing plans and performance measurement. A budget in excess of £100,000 may therefore still be conservative for a JPA fulfilling its full remit.

Insufficient Focus on the Establishment by Law of a Police Authority.

15. In making the resolution at paragraph (4) to Appendix 1, it appears to have been almost taken for granted that the necessary legislation to establish the JPA in law would be prepared and passed. At that time, the complexity of the task was not appreciated. Consequently, the resolution focuses on the JPA *having “to develop and to bring forward to the Defence Committee within two years an action plan to give effect to recommendations in paragraph (3),...”* The real effect was to embroil the shadow JPA in issues such as the office of Chef de Police, the post of Chairman of the Honorary Police, the merger of the Honorary Police Associations, the position of Procureur du Bien Public and codes of practice for Parish Hall Enquiries. Later, the JPA found itself debating Parish policing plans and holding itself responsible for Honorary Police training. However laudable these tasks were, they have collectively served to divert the JPA from the principal task of getting itself established by law. In hindsight, these other tasks could have been delegated to other, more appropriate agencies with a remit to work closely with the shadow JPA.

Taking on the Mantle of a Police Authority Without Any Legal Foundation.

16. This observation flows from the previous one in that by having several more tasks laid upon it by virtue of paragraph (3) of the proposition, the JPA took on the mantle of being the police authority without actually having that status. This only served to raise expectations about what the shadow JPA could reasonably achieve whilst acting in that capacity. It had a mammoth task to achieve in establishing itself by law whilst, simultaneously, having to deal with recommendations specific to the Honorary Service. It might have been helpful if either the Attorney General, whilst seeing that codes of practice were produced for Parish Hall inquiries, had been requested to take responsibility for these other matters in consultation with the shadow JPA or, alternatively, the Comité could have assumed the responsibility. This would have given the Honorary Service ownership and control over the proposed changes whilst leaving the shadow JPA clear to concentrate on its establishment by law.
17. An interesting parallel can be drawn on this point with the formation of the Police Complaints Authority (PCA). The manner in which that body was established in law and the time line to achieve it provide a useful comparison. The States approved in principle the formation of a PCA on the 13th April 1993. Mr Leslie May was appointed to take this work forward by chairing the Steering Group consisting of, amongst others, the Attorney General (the present Bailiff), the former Police Chief and the late Constable Le Sueur (for the Comité). The group made relatively rapid progress in formulating a law drafting brief but, subsequently, the legislation took a long time to complete the law drafting process. The Police

(Complaints and Discipline (Jersey) Law 1999 was registered in the Royal Court on the 5th March 1999 but did not come into force until the 1st January 2001 following preparation of the subordinate legislation. Mr. Leslie May was then appointed as the PCA Chairman. This process took almost 8 years to complete. The important point to note, however, is that the PCA was not expected to operate in some sort of shadow capacity during all that time. It could not, in any case, given that complaints cannot be dealt with in such a fashion. Although we should not be complacent about the 5 years that have elapsed since the States' resolution on the JPA, the PCA scenario serves to show that such matters do take time to achieve, even with fewer distractions.

Lack of Interest in the Post of JPA Chairman.

18. The lack of interest in the post of JPA Chairman has been well documented in answers to questions in the States. There have been two recruiting campaigns in the last 18 months. The first produced no interest at all, whilst the second at the end of last year produced a high quality candidate who later became unconvinced of the need for a JPA following his induction period. That aside, and accepting that Jersey has a tradition of honorary service, chairmanship of a police authority is a heavy responsibility for any member of the public and it may be that the post should have been recognised by way of remuneration. Certainly, this is acknowledged on the mainland as the rates detailed at paragraph 27 will testify. If the States decides to pursue the formation of a JPA, there is a case for Jersey following suit but it would be wise to consider the potential effect on similar posts, e.g.: Chairman Police Complaints Authority, Chairman Appointments Commission.

The Uncertainty in the Future Role of Connétables

19. The uncertainty over the future role of the Constables, created by the Review of the Machinery of Government ('Clothier 2'), has also caused delay. It is likely that Constables would not want to relinquish their policing role if they were also to lose their seats in the States. Conversely, they might be content to see that role go if they are to be busy States members in a ministerial style of government. This uncertainty has had a bearing on the debate and delay surrounding the recommendations at paragraph (3) (a) – (c) of the resolution.

POLICE AUTHORITIES IN ENGLAND AND WALES

20. There are 43 territorial police authorities in England and Wales. Separate arrangements exist for U.K.-wide forces such as the MOD Police, British Transport Police, National Criminal Intelligence Service (NCIS) and the National Crime Squad (NCS). Similarly, territorial forces outside England and Wales have separate structures for funding and accountability. All Scottish local authorities are police authorities in their own right and most come together to share a police force through a joint committee made up entirely of elected members. Two "unitary" police forces – Dumfries and Galloway and Fife – stand alone and are organised differently. These arrangements are outlined in the next section.
21. At this point, members might find it helpful to consider the basis upon which police authorities operate in England and Wales. The synopsis given in paragraphs 22 to 32 is based upon information supplied by the Hampshire Police Authority.
22. Police authorities were formed as a result of the Police and Magistrate's Court Act 1994. They are accountable to the Home Secretary and, ultimately, the general public in their local authority area. Prior to that, there were Police Committees within County Councils usually consisting of 24 councillors and 12 magistrates. The budget was obtained through the County Council. In 1995 the Hampshire Police Authority became a free-standing body separate from the Council. The initial staff complement was 2 part-timers but this has risen to 5 as shown on the attached organisation chart (**Appendix 2**). The present membership of the Authority is 17 - which is representative of most Authorities - consisting of 9 councillors, 3 magistrates and 5 independent lay members. Experience has shown that the councillors tend not to take a political party stance on police matters.

How the Authority is an improvement on the previous Committee

23. Councillors tended to take a party stance under the Committee system, particularly when it came to setting the budget. The magistrates were, and still are, sobering influences with their experience of people passing through the criminal justice system. The lay members have brought strength to the system through their impartiality. The Authority is regarded as more accountable to the public. For example, the Council Tax statement actually lists the contribution to policing. However, it has been difficult for the Authority to sell itself. The public do not perceive any differentiation from the police. Her Majesty's Inspector of Constabulary reports to the Authority following inspections rather than to the Chief Constable. The Authority itself is not subject to scrutiny by the County Council Scrutiny Committees. The Authority is accountable to the Home Secretary and, through its consultation process, with the general public.

How the Hampshire Constabulary is Funded

24. Police authorities in England and Wales receive their funding through a combination of grants from central government and a precept (demand) through the Council Tax levied directly on the public. The grants are notified to police authorities first. The Authority may appeal against the annual grant within a specified period. Once the cost of the annual policing plan is known and approved by the police authority, the difference between the cost of the plan and the amount given in grants is made up by the precept. The public have no say in the size of the precept; the expectation is that the public will accept it as a result of the consultation exercises, surveys, performance criteria and annual reports carried out and published by the police authority.
25. For the FY 2003/4, the Hampshire Police Authority received £184,500,000 centrally through Revenue Support Grant, Share of the National Business Rates and Police Grant. Net expenditure on police services was estimated to be £247,610,000 (an increase of £20,000,000 or 8% over the previous FY). Therefore, the amount required to be raised by the Council Tax precept was £62,800,000. This translated to a charge of £97.29 per annum on each individual's Council Tax for police services alone (an increase of 29.5% over the previous FY).
26. The Authority does get complaints about the size of the precept but these are generally satisfied after more detailed explanation on how the budget is made up. If they do not pay, members of the public can be taken to court. There is no redress for the general public other than through the ballot box. There is no mechanism for the public to take direct action in the way that, for example, St. Helier rate payers have done in recent years. The argument put forward is that the Authority carries out a robust consultation exercise with the public and then translates their wishes into the Policing Plan. In theory, therefore, the precept is simply the financial value of the level of service required by the public. The flaw in this argument of course is that the public do not know the likely cost of the expected level of service until the Council Tax is about to be levied.

Hampshire Police Authority Budget

27. The Authority has cost £803,000 for FY2002/3 and is projected to cost £1million for FY 2003/4. Staff costs for the 5 staff are £128,000. There has been a recognition that members have to be properly remunerated for the work they do. A flat rate per annum is paid depending upon position held. The current rates are £20,000 (Chairman), £15,000 (Vice-Chairman), £12,500 Panel Chairman and £8,500 (members).

Responsibilities

28. The Authority employs police officers in its name but the Police Human Resources (HR) Department does all the recruiting and personnel management. The Force has a Director of Finance who manages the budget but who is subordinate to the Council Treasurer. The Council Treasurer is, notionally, the Authority's finance officer. The Chief Constable manages the Force and constructs the annual budget for submission to the Authority for scrutiny. As described above, the Authority does not have to go to the

Council for funding.

Personnel Matters

29. The Authority does not have a role in disciplining police officers except for Assistant Chiefs and above (i.e.: members of ACPO). All personnel matters are dealt with by the Force themselves, although the Authority's Personnel Panel keeps a watching brief on such matters as sickness levels, the HR Plan, recruitment levels, deployments, etc. The Authority appoints, and dismisses if necessary, all members of ACPO. Under the Police Reform Act 2002, Health and Safety will fall to the Authority from the 1st June 2003. The Authority is wondering how to implement this. The options are either take on their own Health and Safety Officer or to delegate the task back to the Force.

Operational Matters

30. The Authority has no responsibility for operational matters at all. However, on a very sensitive issue, the Chief Constable may choose to gain the Authority's support. Hampshire had an interesting parallel with Jersey concerning the introduction of CS spray. The former Chief Constable chose to advise the Authority that this was likely to be brought in and the Authority felt at first that it would be a step too far. Members were invited to observe the training sessions for officers and some chose to subject themselves to the incapacitant spray. The Authority supported its introduction, although the Chief Constable could have brought it in solely in accordance with ACPO policy.

Authority Meetings

31. The Chief Constable stays for the whole of the Authority's meetings unless, exceptionally, there is a confidential item. An obvious example would be a discussion about the future of the Chief Constable himself. The Authority operates with Sub-Committees as shown on the attached organisation chart (**Appendix 3**).

The Policing Plan

32. The annual Policing Plan is put together by the Force and the Authority then adopts it after discussion and any amendment. The major part of the work is done by the Corporate Services Department at Force Headquarters but they work closely with Authority officers throughout the year to prepare drafts and float these with the Authority during the year, especially on novel or sensitive matters. The Authority is thinking of taking on a Performance Management Officer to quality assure the information coming from Force HQ. This is not the result of any mistrust of the Force's Corporate Services Department, but more to help members interpret the information coming from the Force and to suggest questions that members might wish to ask. This was a recommendation from a recent Best Value Review. They are also considering taking on an officer to work on Community Safety Partnerships. This would take the staff complement up to 7.

THE DUMFRIES AND GALLOWAY MODEL

Background

33. Unlike in England and Wales or with the Strathclyde Constabulary in Scotland, where a single Constabulary might serve several local authorities, the Dumfries and Galloway local authority boundaries coincide with those of the Dumfries and Galloway Constabulary, hence the term "unitary police force / local authority." When police authorities were created under the Police and Magistrate's Court Act 1994, there was resistance to having one in Dumfries and Galloway on the basis that the local authority was too small to justify the extra layer of bureaucracy. The Dumfries and Galloway Constabulary has a complement of approximately 340 police officers. Policing takes place through the local authority's Police, Fire and Public Protection Committee which clearly has a wider remit than purely policing matters. In terms of its unitary nature, the size of its police force and the political arrangements that exist,

Jersey bears a closer comparison to Dumfries and Galloway than to police authorities in England and Wales.

Police Funding

34. The Dumfries and Galloway Police revenue budget for the FY 2003/2004 is £26,942,000. This compares with the States of Jersey Police budget of £19,045,000 for 2003.

Committee Funding and Support

35. The cost of supporting the Police, Fire and Public Protection Committee is currently £48,000. These costs comprise:

- Committee costs: special responsibility allowances for the Chairman and Vice-Chairman, travelling and printing of documents (£30,000).
- Staff costs totalling £18,000. There are no dedicated staff; however, the following staff cover the support functions:

Group Manager Corporate Support and Governance – 5% of time acting as Deputy Clerk to the Committee covering duties such as consultation, management, Registrar of Tribunals and legal advice.

Principal Officer – 10% of time on agenda preparation, reports and correspondence.

Secretarial – 20% of time.

Membership

36. The Police, Fire and Public Protection Committee is comprised of 19 members with the following political representation: Conservative (4), Labour (5), Lib-Dem (2), SNP (3) and Independent (5). The Chairman is currently Lib-Dem and the Vice-Chairman is an Independent. There are no members of the judiciary or lay members serving on the Committee and is therefore a totally political committee unlike police authorities in England and Wales.

Committee Responsibilities

37. The Committee's main responsibilities are to:

- Consult with the local community regarding police and fire matters.
- Publish an annual police and fire best value performance plan setting out priorities for the year ahead, performance targets and the allocation of resources to meet these priorities.
- Monitor best value and continuous improvement activities pertaining to police and fire matters.
- Appoint the Chief Constable, Firemaster and their Deputies.

Developing the Policing Plan

38. Much as in England and Wales, the Policing Plan and priorities are developed by the Chief Constable following detailed public consultation, analysis of surveys and feedback from local authority members on local issues. This process enables the Committee to respond to local issues and remain influential in setting policing priorities.

Performance Monitoring

39. Accountability is achieved through monitoring police performance on a quarterly basis and having a rigorous public performance reporting mechanism in place. Specifically, this includes:
- An Annual Public Performance Report which provides information and local statistics on all aspects of the constabulary's performance.
 - Formal reporting to the Committee on a quarterly basis.
 - Reports to local Area Committees to inform debate on particular local issues.
 - A Public Performance Report Supplement distributed through the local media. These reports are open and transparent and allow for scrutiny and discussion of performance as well as providing members and the public with an opportunity to raise matters of concern to constituents.

Dumfries and Galloway Council Perspective

40. The view of the Dumfries and Galloway Council is that, through its Police, Fire and Public Protection Committee, it supports the provision of a locally based police force. It believes that overseeing policing activities in this way optimises accountability and service delivery. As a consequence of being a unitary authority, Dumfries and Galloway benefits from seeing its residents receive a locally focussed and locally responsive service which it regards as being a direct result of the current structure. It is also significant that good relationships are fostered with partner agencies which benefit from having the same geographic boundaries.

ASSESSING THE BENEFIT OF HAVING A JPA – ‘SWOT’ ANALYSIS

41. In order to formulate a view, it is helpful to consider the strengths, weaknesses, opportunities and threats of having a police authority in Jersey. A ‘SWOT’ analysis is set out below.

SWOT Analysis of Having a Police Authority in Jersey:

Strengths

- To help “*secure the maintenance of effective and efficient policing throughout the Island*”.
- Able to better co-ordinate at the strategic level the policing strategies of the States and Honorary Police.
- Able to include independent, lay members in order to represent the will of the people.
- Able to set objectives and performance targets for both the States and Honorary Police.
- To give greater transparency to policing activity, particularly for the Honorary Police, about whose activities the general public receive little information.

Weaknesses

Jersey too small to replicate the England and Wales police authority model. Island's government and civil service machinery well capable of managing policing and achieving local accountability.

Presupposes that we do not have “*effective and efficient*” policing already (this cannot be said about the States Police in particular as the most recent HMI report will testify).

There could be an annual recurring cost to the tax payer of c.£100,000 to run the JPA which bears scrutiny, especially in the current financial climate. In opportunity cost terms, this equates to at least 2 uniformed police officers.

Jersey does not have a Council Tax system and precept for police funding in the same way that the U.K. The need for a high level of accountability and transparency is clear in the English system where an annual, per capita charge is levied on each member of the public.

Introduces a further layer of bureaucracy between the operational services and the Home Affairs Committee. Could slow and frustrate the implementation of key policing initiatives.

Will place heavy demands upon the lay Chairman, assuming one can be found to fulfil the role on an honorary basis.

JPA constitution could be flawed:

Under the Ministerial system, there may not be 2 members of the Home Affairs Committee to sit on the JPA.

There are two places on the JPA for Constables. If they do not relinquish their policing role, under the England and Wales police authority model they should not be full members of the JPA. As members of the Honorary Police, they would effectively be sitting in judgement of the States of Jersey Police and themselves.

Opportunities

- Enables the general public to have a direct say in policing through independent, lay members.
- May help the Honorary Police to achieve a more unified organisational structure and achieve consistency in policing activity between Parishes.

Threats

- ❖ To States members:
 - Possibility that the JPA would artificially distance elected decision makers from a key States responsibility. Could even be construed as States members abrogating responsibility for policing issues.
 - Possible reluctance of the Honorary Police to subordinate itself to a police authority.
- ❖ To the Minister for Home Affairs under a ministerial system:
 - Reduced direct influence on policing strategy.
 - Weakened position politically on the Council of Ministers if there is a perception that the States of Jersey Police are not under the control of the Committee, i.e.: span of control reduced considerably.
- ❖ To the general public:
 - Further rise in public expenditure for the additional layer of bureaucracy.
- ❖ To the independent Chairman:

The dichotomy between the States and Honorary Police – and even within the Honorary Police itself - could seriously test the role of an independent and part-time Chairman. Minor roles, responsibilities, organisational and ‘who does what’ issues could distract the JPA from important strategic policing issues. We have already seen this with the JPA getting involved in the reluctance of the Honorary Service to form a single Association structure and the negotiations that took place to achieve a Chefs de Police Committee.

The present system enables States members to ask questions of the President Home Affairs on the floor of the House. If this is to continue, it would necessitate the President retaining a close working relationship with the Police Chief which could marginalise the position of the Chairman.

❖ To the Police Chief:

Loss of regular and direct access to the political body responsible for policing matters (Home Affairs Committee). He cannot work to two separate chains of command.

Possibility that progress on policy matters hampered where Honorary Police reluctant to embrace initiatives.

OTHER ISSUES

The Relevance of the Review of the Machinery of Government

42. When Sir Cecil Clothier published his first report in 1996 on police services, thoughts of a review of the machinery of government were undeveloped.. The report we now know as ‘Clothier 1’ was written with a Committee style of government in mind. The Report on the Review of the Machinery of Government (‘Clothier 2’) will see the States moving to ministerial government, fewer States departments/ministries, a Council of Ministers to form the Executive and Scrutiny Committees, formed from the majority of States members, which will provide the necessary checks and balances. The question arises: does Jersey need an English style police authority and a parallel Scrutiny Committee system in order to achieve the required level of transparency in policing matters?

Sub-Committees of the States

43. Paragraph 3 of the Report of the Working Party on Policing of the Island contains the following statement:

*“The Working Party believes the creation of another political committee to undertake this role would be inconsistent with the current resolve of the States to reduce their Committees, **and an additional disadvantage is that political committees are unable to include independents in their membership.** The creation of a Police Authority avoids these concerns and is therefore recommended by the Working Party. The Police Authority would be answerable to an Administrative Committee: either the Defence Committee or the proposed Home Affairs Committee.”*

44. Although this statement is true in relation to normal States Committees, it is worthwhile to consider Article 32 of the States of Jersey Law 1966 which relates to sub-committees:

“ARTICLE 32

POWER OF COMMITTEES TO APPOINT MEMBERS TO SUB-COMMITTEES

- (1) Any Committee may appoint as members of a Sub-Committee of the Committee any

persons, whether members of the States or not, and any person so appointed may exercise all the powers of a member of the Sub-Committee other than a power which involves the expenditure of public monies.

(2) The term of office of persons appointed under this Article shall be such as the Committee may determine and the Committee may revoke any such appointment at any time."

45. Article 32 provides a vehicle for independent members to serve on States Sub-Committees. A current example would be the Capital Projects Review Sub-Committee administered by the Finance and Economics Committee. Sub-Committees have the advantage of not requiring separate foundation by law in the way that was envisaged for the JPA. This option was unrehearsed in the Working Party's report and was not considered as an alternative, perhaps because the Working Party envisaged that this could lead to the creation of another political body quite separate from the Home Affairs Committee.

Finance

46. The current arrangements for public finance mean that the Force's finance officer, the Home Affairs Director of Finance and Administration, is accountable to the Treasury through the Home Affairs Committee. This could give rise to a situation where the Police Chief would need to attend Committee meetings on financial issues, but would have to resist the temptation to discuss operational matters because that would be JPA business. An alternative would be for the States of Jersey Police to receive its budget direct from the Treasury, but it is unlikely that the Finance and Economics Committee would want to fragment the normal accounting line through a Committee of the States. Moreover, such an arrangement might not fit with any new accounting rules envisaged for the Ministerial form of government. Additionally, if the JPA is to notionally oversee the overall policing budget, there is much work to be done on how Honorary Police budgets should be organised with regard to budget setting, accountability and value for money.

Manpower

47. In England and Wales, police personnel are employed in the name of the police authority. The draft law drafting instructions drawn up by the shadow JPA suggested that police civilians would be employed by the JPA. To achieve this, detailed negotiations would need to take place with employee groups and legislative provision made. There may also be a conflict with a States desire to standardise conditions of employment in the public sector.

OPTIONS

48. Taking into account the foregoing background and arguments, the following 3 options emerge for members' consideration. The considerations 'for' and 'against' each option are given, although these may not be exhaustive, to try to avoid any possible bias.

Option 1: Proceed towards the establishment of a JPA by law

For:

This is the status quo option which would require the Home Affairs Committee to follow through on the States resolution of the 19th May 1998. It would, arguably, put into effect the 'strength' criteria outlined in the SWOT analysis by improving efficiency, effectiveness, accountability and transparency of policing services. It would be the only viable option if the majority of States members are in favour of having a JPA.

Against:

The shadow JPA is currently 'hamstrung' by a States resolution which places upon it difficult tasks which are not central to its establishment by law. The additional benefit to Jersey that would be derived does not sufficiently outweigh the cost, either financially or in time. The financial cost is estimated to be at least c.£100,000. There is negligible interest from lay people in becoming the independent Chairman.

Option 2: Establish a consultative group under the present political structure

For:

It is accepted that independent, lay people cannot serve on committees of the States. However, they could serve on a Sub-Committee/consultative group in much the same way as we have a Capital Projects Review Sub-Committee and a Firearms Law Liaison Group. The group could be chaired by either the President of the Home Affairs Committee, a Committee member, or an independent member, with 2/3 independent lay members to provide public representation. It would be necessary to consider how the proposed body would be constituted under the forthcoming ministerial system when sub-committees, as they exist at present, will disappear, but it is likely that some alternative form of committee could be created under the chairmanship of the Minister for Home Affairs or an Assistant Minister. A member of the proposed Conseil des Connétables could be included to provide representation for the Honorary Service at a political level. Possible titles would be the Police Liaison Group or Police Consultative Committee. Senior politicians and their officials would remain accountable for policing but could draw on the broader experience of Honorary and independent members for advice, support and the transparency with the public that was envisaged through the JPA. Executive responsibility would remain with the Home Affairs Committee and organisational support effected through the Home Affairs Department. The introduction of a scrutiny function in the States would add weight to the need for accountability and transparency. There would be no additional cost other than dedicated Executive Officer support.

Against:

The group would have no executive authority over the Honorary Police which could leave a doubt that it could do little to draw the activities of the two police forces further together. The group could also be viewed as having presentational value only and being an unnecessary diversion from operational policing where mechanisms already exist for close liaison. However, as an alternative, a Memorandum of Understanding could be agreed pledging support for the aims and objectives of the Consultative Committee.

Option 3: Rescind the present States resolution

For:

The presumption has been made that the Island needs to import the England and Wales concept of a police authority in order to achieve efficient and effective policing services and transparency with the public that they serve. Is this necessarily so? As far as the States of Jersey Police are concerned, HMI reports and Public Satisfaction Surveys would indicate otherwise. The same processes are not in place for the Honorary Police and it is accepted that they need to move with the times. However, they are essential to what is “Jersey” and other ways could be found to improve and measure their effectiveness. In England and Wales, police authorities afford the opportunity to devolve responsibility for policing to the local level and to justify the levels of funding demanded through the Council Tax precept. In Jersey, local and central considerations merge and funding mechanisms are markedly different. The marginal benefit of having a JPA might not outweigh the recurring cost. It would introduce an unnecessary layer of bureaucracy at a time when the States is drawing down its committee structure and actively seeking to reduce public expenditure.

Against:

Seeking to rescind a States resolution should not be undertaken lightly. In order to do so, robust and cogent arguments need to be put forward. The Committee would effectively be saying that the recommendations in Clothier 1 and the subsequent recommendations of the Working Party and the Defence Committee are not as valid as they were perceived to have been in 1998. The Home Affairs Committee would have a responsibility to take its case to the States where the arguments for and against could be aired publicly.

CONCLUSION

49. The report of the Working Party on Policing of the Island (R.C.41/1997) gave effect to the resolution of the States of the 19th May 1998. At paragraph 3.5 of the report, the Working Party put forward the following Statement of Common Purpose and Values for both arms of the police in Jersey:

“To work together to increase continually the public’s satisfaction of the policing in the Island through the approval and application of strategies involving the efficient use of all resources available to the policing function, whether Honorary or State.”

50. The fundamental question to consider is whether, taking into account the experience of the shadow JPA over the last 5 years and the developments that have taken place since, the Island should proceed to set up a police authority. There is a cost / benefit judgement to be made, i.e.: whether the cost to the public of having a police authority along the lines of the England and Wales model outweighs any additional benefit it will deliver. As with any similar problem, a balance needs to be struck; the solution is neither black nor white.
51. The cost can be measured in both time and money. Five years have elapsed since the States passed its resolution. It will take several more years to fully develop the law drafting brief, gain a place in the law drafting programme and pass the necessary legislation. Regarding the financial cost, at paragraph 3.10 of the same report it states. : *“The Police Authority will require to be supported by a clerk and a treasurer. Both could be covered by existing posts.”* Suffice it to say, there are no existing posts and it is difficult to know what the Working Party had in mind.
52. In terms of additional benefit, the police authority aims set out at paragraph (1) of the States resolution are of course laudable. These aims hinge on efficiency, effectiveness and accountability. The questions that need to be asked from the point of view of additional benefit are:
- (a) If it is accepted that both our policing services are, to varying degrees, efficient and effective, how much more so will they be under a JPA?
 - (b) Bearing in mind processes such as the States of Jersey Police Public Satisfaction Surveys and the scrutiny of Honorary Police budgets through Parish Public Assemblies, how much more accountable would the police be through a JPA?
 - (c) If the judgement is that the potential benefits to be gained outweigh the cost, can they be accrued in other ways rather than establishing a JPA?
53. An alternative to a JPA would be to establish a sub-committee specifically to oversee policing in Jersey along the lines of the Dumfries and Galloway model but with representation from lay members. This is currently allowed for in the States of Jersey Law and would have the following advantages:
- It would not require separate foundation in law.
 - Political lines of accountability to the States would be preserved through the Home Affairs Committee.
 - As well as lay membership, the Honorary Service would be represented at political level by a constable assuming that their policing responsibility is relinquished, but their political responsibility retained, under a ministerial system of government.
 - The Chief Officer, States of Jersey Police, would retain a single line of responsibility.
 - Cost would be minimised by providing organisational support through the Home Affairs Department with some Executive Officer support.
 - The sub-committee would still be responsible for producing the annual policing plan, establishing

priorities, consulting with the public and performance monitoring and, under the ministerial system, would be subject to scrutiny along with other government bodies.

STATES MINUTES

19th May 1998

“Policing of the Island - P.49/98, P.84/98 and P.86/98

THE STATES commenced consideration of the proposition of the Defence Committee regarding the policing of the Island and adopted sub- paragraphs (a) and (b) of paragraph (1).

Sub-paragraph (c) of paragraph (1) was adopted, the States having accepted an amendment of Deputy Frederick John Hill of St. Martin, that for the words ‘issuing an annual policing plan’, there should be substituted the words ‘issuing an annual report reflecting achievements, a policing plan and budget details’.

Deputy Maurice François Dubras of St. Lawrence withdrew his amendment that, in sub-paragraph (c), for the word ‘Force’ there should be substituted the word ‘Service’.

Paragraphs (2) and (3) were adopted.

Paragraph (4) was adopted, the States having accepted an amendment of Deputy Frederick John Hill of St. Martin that, in the fourth line of the paragraph, after the words ‘Defence Committee’ there should be inserted the words ‘within two years’.

Paragraph (5) was adopted.

THE STATES, adopting the proposition as amended -

- (1) approved the establishment by law of a Police Authority with responsibility for -
 - (a) securing the maintenance of effective and efficient policing throughout the Island;
 - (b) setting local objectives and performance targets for the States of Jersey Police Force and the honorary police;
 - (c) issuing an annual report reflecting achievements, a policing plan and budget details to be presented to the States and published;
- (2) agreed -
 - (a) that the constitution of the Police Authority should be as follows -
 - (i) an independent Chairman appointed by the States on the recommendation of the Defence Committee;
 - (ii) two members of the Defence Committee, not being Connétables, appointed by that Committee;
 - (iii) two Connétables appointed by the Comité des Connétables;
 - (iv) two independent persons appointed by the States on the recommendation of the Defence Committee following an open selection procedure involving the Attorney General and the Defence Committee,

the States appointments to be made following consideration in camera;

- (b) that, subject to paragraph (4), the Authority's term of office should be three years and that appointments might be made to fill any vacancies occurring during the Authority's term of office;
- (3) approved the recommendations in paragraph 2.2 of the Report of the Working Party on Policing in the Island dated 5th December 1997, as follows -
 - (a) that the office of Chef de Police for each parish, be established by law to have charge of the honorary police within the parish and perform such other duties as may be prescribed by law; and that the Connétables should cease to fulfil an operational policing role but retain overall responsibility for the effective and efficient policing of their parish;
 - (b) that posts of Chairman, and Deputy Chairman, of the Honorary Police, and the responsibilities of the respective posts, be established by law;
 - (c) that the Centeniers Association and the Association of Vingteniers and Constables Officers be recommended to merge into a single association;
 - (d) that the senior Procureur du Bien Public in a parish should be empowered by law to deputise for the Connétable in the event of the latter's incapacity or absence from the Island;
 - (e) that the Attorney General be requested to prepare and maintain a Code of Practice covering Parish Hall inquiries and to monitor the consistency of awards and procedures at such enquiries;
- (4) agreed that, pending the passing of the necessary legislation, the Police Authority should be appointed with the charge, in consultation with all interested parties, to develop and to bring forward to the Defence Committee within two years an action plan to give effect to recommendations in paragraph (3), and any consequential changes that may be necessary; to identify in that action plan the new or amending legislation, and all administrative measures, necessary to implement the plan; and to charge the Defence Committee to resolve with the Policy and Resources Committee the timetable for drafting the legislation, and in consultation with the Comité des Connétables, to bring to the States the necessary changes for approval;
- (5) charged the Defence Committee, in consultation with the Finance and Economics Committee, to ensure that sufficient funds are made available to support the work of the Authority.

Members present voted on the proposition, as amended, as follows -

'Pour' (45)

Senators

Horsfall, Rothwell, Le Maistre, Stein, Bailhache, Syvret, Tomes, Norman, Walker, Kinnard.

Connétables

St. Clement, St. Lawrence, St. Mary, St. Brelade, Grouville, St. Martin, St. Ouen, St. John.

Deputies

Wavell(S), H. Baudains(C), Le Sueur(H), Coutanche(L), St. Mary, S. Baudains(H), Trinity, Pullin(S), Johns(H), Duhamel(S), Routier(H), Dorey(H), Layzell(B), Breckon(S), Grouville, St. Martin, St. John, Le Main(H), Blampied(H), Rabet(H), Crowcroft(H), Vibert(B), de la Haye(B), Le Cornu(C), St. Peter,

Dubras(L), St. Ouen.

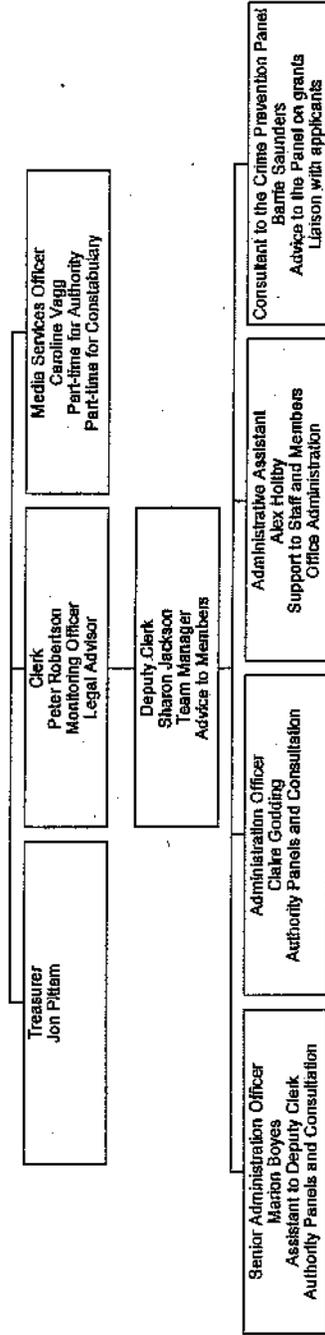
‘Contre’ (1)

Connétable

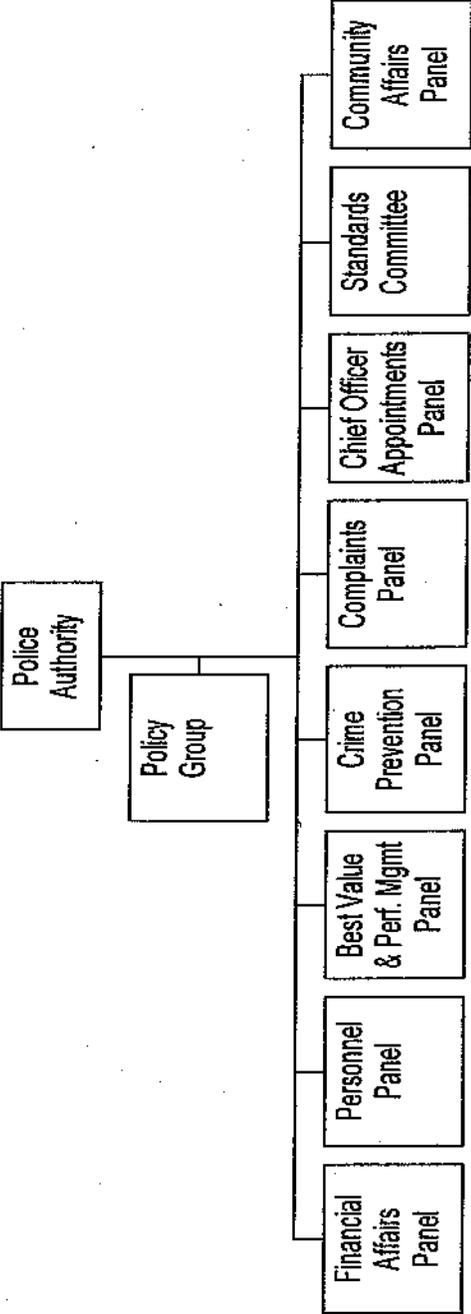
St. Helier.”

HAMPSHIRE POLICE AUTHORITY

Staff Organisation Chart



Hampshire Police Authority Committee Structure



Re-issue note

This report has been re-issued as, due to a typographical error in the States Greffe, an incorrect version was published originally.