STATES OF JERSEY

EX GRATIA PAYMENT TO MR. ROY BOSCHAT

Lodged au Greffe on 26th May 2015
by Deputy T.A. McDonald of St. Saviour

STATES GREFFE

PROPOSITION

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

to approve the making of an *ex gratia* payment of £360,000 to Mr. Roy Boschat as compensation for loss of business and reputation arising from the actions of the former Deputy Chief Officer of the States of Jersey Police and to request the Minister for Treasury and Resources to make the payment from central contingencies or, if insufficient funds are available for 2015, to request the Council of Ministers to make provision in the draft Medium Term Financial Plan 2016 – 2019 for this payment to be funded.

DEPUTY T.A. McDONALD OF ST. SAVIOUR

REPORT

In mid-2005, complaints were made to the States of Jersey Police ("SoJP"), by two of the vehicle recovery businesses, that the bulk of police towing and recovery work was being undertaken by Roy Boschat's company and that the work was allegedly being influenced by "grace and favours" being given to a number of police officers by Mr. Boschat. The Chief Inspector, Operations instigated a review and restatement of the policy.

In fact, according to an e-mail of 12th February 2006 from the Force Control Room to the Inspector drafting the new policy, it was noted that the original policy stated that all tows of vehicles owned by the SoJP would be undertaken by Mr. Boschat.

The new Deputy Chief Officer of the States of Jersey Police ("DCO") followed this up and appears to have convinced himself that the fact that the bulk of the work was being undertaken by Mr. Boschat's company was due to favours being granted by Mr. Boschat.

In actual fact, Mr. Boschat's prices were lower than the other companies. Additionally, Mr. Boschat had been in business for some 20 years and had been undertaking night calls for the other businesses where the owner/operator was getting on in years, the last of whom had retired in August 2005. He also had contracts with 9 of the Parishes, with States Departments, with hire car and insurance companies and other commercial companies. As a result he was well known by the Public.

Late in 2005, on 30th November, the DCO wrote to Mr. Boschat confirming that there would be specific standards for his company if he wanted to be included on the proposed rota (*see* Figure 1). It also stated that there were no specific criminal allegations made against him by the 2 complainants regarding unfair allocations of police recovery work. In view of subsequent actions, this appears to be a shading of the truth.

On the same day, 30th November, the DCO sent another letter to Mr. Boschat saying that he had 14 days from receipt of the letter to ensure that all his vehicles complied with PAS43 2002 accreditation, or at any rate by 31st December (*see* Figure 2). It should be noted that the PAS43 was not, at the time, a Jersey standard. In fact there was no copy of the PAS43 regulations in the Island. It is questionable as to whether it was lawful for the SoJP to insist on compliance with a United Kingdom standard without local consultation.

In May and June 2006, 2 circulars were sent round to all officers on the instructions of the officer in charge of the Professional Standards Department, the DCO, requiring them to report any "favours" accepted from Mr. Boschat (*see* Figures 3 and 4). The statements given by officers reveal social contacts only with Mr. Boschat, from the copies of the statements supplied by the SoJP.

Mr. Boschat was arrested on 5th September 2006 on the basis of the complaint and the allegations. At the same time as the arrest, a police team searched Mr. Boschat's house and removed his computer for forensic analysis. On the same day, instructions were issued by the Head of Operations that Mr. Boschat's recovery firm should not be used until further notice. A further memorandum was sent to the DCO on the same day, 5th September, by the Head of Operations, confirming that Mr. Boschat had been informed that in light of the evidence that had been gathered on the corruption and

bribery charges, he would no longer be on the rota of towing companies called out by SoJP. This action was confirmed in writing by the DCO in a letter dated 6th September. Copies of these documents are attached as Figures 5, 6 and 7.

The SoJP then set in train a complicated process to require companies to tender to be on the rota for the towing contract.

On 12th September 2006, the DCO sent a letter to all the Connétables and all States businesses (*see* Figure 8). This letter stated that Mr. Boschat was involved with a significant number of cases of misuse of police computers, and was also likely to be charged with offences of bribery, corruption and conspiracy to defraud. It also accused Mr. Boschat of dishonestly obtaining business from the SoJP, falsifying records, lying to the Public and making gifts to members of the SoJP. There were further insinuations of complete dishonesty. The DCO maintained that it was his duty to bring these matters to the attention of all interested parties.

At the same time, as soon as Mr. Boschat was arrested, word was circulated to his other customers, it is not known by whom. As well as losing him clients, this caused problems with his business insurance.

No action was brought on the basis of the allegations of corruption and bribery and no evidence was ever produced to substantiate this accusation. On 20th November 2006, a letter was sent to Mr. Boschat confirming that no action would be taken on these matters (*see* Figure 9).

After the collapse of the corruption case at the end of 2006, Mr. Boschat lodged a complaint against the DCO over the way he had been treated. Initially, this caused problems as there was no provision in the Law for complaints against the DCO.

At the same time, SoJP commissioned a report from Sussex Police on the contracting arrangements for vehicle recovery. This review was undertaken by the Head of Road Policing. The Head of Road Policing prepared a comprehensive report, the findings and recommendations of which are attached as **Appendix 1** to this Report.

The Head of Road Policing considered that the discrepancy in the volume of work undertaken reflected the deep-rooted belief that Mr. Boschat was the best to facilitate operations. There was also the evidence that Mr. Boschat's charges were lower than other operators and, as already stated, Mr. Boschat had been in operation for some 20 years and was well-known.

The report found that the current system was poorly organised. It noted that vehicle recovery costs were concealed within Court and Case costs, and noted that tighter budget setting needed to be in place. There was a lack of clearly defined policy. The report also criticised the double standard being applied (to Mr. Boschat) which was not considered ethical. This point was emphasized in the final recommendations, where the Head of Road Policing recommended –

> *"3.5.12 Recommend that SoJP invites Roy Boschat back on to the recovery operators scheme. The ethical issues of double standards demean the professionalism of the Force. The review considers the appointment of three contractors totally suitable for all operational needs of the Force. The serious operational deficiencies found with*

THIRD PARTY INFORMATION *operating practices and their impact on front line policing cannot be underestimated.”*.

Despite the fact that there was no evidence that the allegations of “grace and favour” transactions were correct, SoJP kept Mr. Boschat’s firm off the rota, contrary to the Head of Road Policing’s recommendation that he should be reinstated. It should also be noted that strenuous efforts were made by the then senior officers to prevent circulation of the Sussex Police report to Mr. Boschat. In fact it was not until 2014 that the report was released.

Following the letter by the DCO to the Connétables and States Departments (*see* Figure 8), Mr. Boschat lost Parish and States work, and it should also be noted that, as a result of the arrest, Mr. Boschat lost most of his other contracts. At the same time, the immediate loss of the SoJP and States work in 2006 had an instant effect on the profitability of Mr. Boschat’s business. Mr. Boschat’s business was based on a high turnover and economic price. **Appendix 2** demonstrates the effect on his turnover.

In 2007 the cost of vehicle recovery to SoJP soared. This was questioned in the Assembly, *see* Figure 10. The reply identified the significant increase in towing charges from the 2 companies that were then on the rota, plus the fact that the SoJP were not ensuring that, where appropriate, charges were passed onto the owners of cars which had been towed.

Concurrently, a case was being brought against a third party on the basis of inappropriate access to the Police Computer to find the owners of various number-plates.

It should be noted that it was normal practice for the vehicle recovery firms to contact either SoJP or DVS in order to obtain ownership details of vehicles who were due to be charged for towing, as allowed in Article 31 of the Data Protection (Jersey) Law 2005. In fact, SoJP and DVS were used to receiving these requests.

In July 2007, Mr. Boschat gave evidence for the defence at the trial of the third party who was charged with a number of offences under the Computer Misuse (Jersey) Law 1995. During his evidence, Mr. Boschat admitted asking the accused to check on one registration number on the police computer.

Under normal practice, if he had asked DVS for the information it is probable that no charge would have been raised.

This self-incriminating admission was then used as a basis for bringing a case against Mr. Boschat.

A number of hearings were held in the Magistrate’s Court. At the time, representation by an advocate was becoming a significant cost and Mr. Boschat therefore resorted to representing himself.

Eventually, the final hearing was held on 28th August 2008, when the Magistrate dismissed the charges on the grounds that there had been no warning against self-incrimination. In addition, it was noted that Mr. Boschat had been appearing as a defence witness. The Advocate had not rehearsed the evidence that Mr. Boschat would

give which actually supported the prosecution. If the evidence had been rehearsed before the case, it is certain that Mr. Boschat would not have been called as a witness.

It should be noted that the DCO had already retired at the end of July.

Timeline of events

This is attached to this report as **Appendix 3**.

ADDITIONAL CONSIDERATIONS

Grounds for complaint by other operators

The original complaint by the other towing operators was not considered rationally. Mr. Boschat obtained the business because his charges were significantly lower than their charges. He had also been in business for some 20 years and had a wealth of experience.

The SoJP had jumped to the conclusions that the jobs were awarded because of favouritism. This was incorrect. The charges were lower and the firm had the equipment to undertake all types of towing. Mr. Boschat had extensive experience and performed efficiently and effectively, and was known to be available at all hours of the day and night.

This was pointed out by the Collision Investigator from DVS. He wrote to the Senior Officers on 12th December 2005 complaining about the inappropriateness of keeping blindly to the rota in certain circumstances requiring a specialised approach. He had required a vehicle to be moved, after a Serious Road Collision, in such a manner as to maintain the integrity of the vehicle prior to forensic examination. He considered that he was able to rely on Mr. Boschat to provide this service with high-quality equipment. The operator called had handled the vehicle in an unsatisfactory manner.

Despite the searches, there was no evidence to substantiate the “grace and favour” claims and no case was brought. However, the letter to Parishes and States Departments libelling Mr. Boschat had an immediate effect of causing him to lose a substantial slice of business.

Subsequent events

In November 2005, a new policy was issued which required all requests for towing to be effected by the Control Room, who would work to a rota.

At the same time, Mr. Boschat was given 2 weeks from 30th November 2005 to bring his vehicles up to PAS 43 standard, with an extension to 31st December to allow for Christmas. This he achieved, but at considerable expense.

The actions undertaken by the SoJP were totally unreasonable in view of the fact that, despite examining Mr. Boschat’s computer and searching his house, no evidence was found on which to charge Mr. Boschat on the grounds of corruption or fraud or of any of the accusations made by the DCO in his letter to the Connétables, nor indeed by Superintendent Pearson in his letters to Mr. Boschat.

It is notable that the recommendations in the Sussex Police Report on the towing operations in Jersey were quite emphatic that Mr. Boschat should be reinstated on the rota. Given this recommendation and the contents of the letter to the Connétables, it is not surprising that copies of the particular letter and the report did not reach Mr. Boschat until 2014.

Tender for inclusion on the SoJP Rota

During the selection of the 3 operators, there was considerable discussion about one operator not being up to the standard of the other two. It was decided, in e-mails of 5th February 2008, that that third operator would have 6 months to get up to standard, but it appears that operator did not get up to standard until 21st October 2008, some 9 months or so later. This is contrasted with the short time period given to Mr. Boschat.

The Police Rota

(a) 2005/6

Initially an informal rota was established, which consisted of Mr. Boschat and the other 2 recovery firms in existence in September 2005.

The original policy advised strongly that the owner should make the choice of recovery vehicle, unless it was covered by a contract.

The performance was analysed by Sussex Police to evaluate the latest performance of the rota. It was noted that if either of the other 2 companies was called and was unable to fulfil the recovery, then they would contact the other, not Mr. Boschat. Given that the SoJP realised this and that they were committed to a fair and honest procedure, it is surprising that they allowed this practice to continue.

(b) Formal tendering for Rota 2007

The tender was advertised in November 2007. Mr. Boschat was told that, because of the information on record held by SoJP, he would not be allowed to tender for the rota. This was on the instructions of the DCO.

It should perhaps be noted that the process of setting up a rota and obtaining tenders for the rota, together with setting up service level agreements, turned out to be considerably more complicated than the SoJP envisaged originally. At the end of 2008 there were still ongoing discussions as to the charging policy that should be adopted. The 3 companies on the rota charged clients different sums for the same work. The SoJP were concerned that the Public should not criticise them for any high or differential charging and were anxious that the States should take responsibility.

The Sussex Police also pointed out in their report that imposing a recovery company on a vehicle owner when they have no statutory duty to insist on a vehicle being towed away is probably not legal.

Miscellaneous Police Comments on requirement to institute a rota

In an e-mail of 25th December 2005, the question was raised as to why the SoJP needed to have 3 recovery companies on the rota. It was pointed out that they merely had a list for taxis and they only used one carpenter. The calculations by Sussex Police suggested that it would have been quite reasonable for the SoJP actually to have only one Recovery Company working for them, but that it was perhaps more appropriate for the only 3 operators to be included in a small jurisdiction.

Complaint against DCO

Mr. Boschat complained formally about his treatment by the DCO after the accusations of corruption were withdrawn. This caused some confusion, as there was no provision in the Law or Regulations to deal with a complaint about the Deputy Chief Officer. Eventually it was arranged that Devon and Cornwall Police would deal with the investigation. This was convenient, as they were already involved with Operation Rectangle as their officers were assisting SoJP with their (SoJP) access to Holmes. Whilst it was convenient, there could be a perception of a lack of independence.

At the trial of a third party under the Computer Misuse (Jersey) Law 1995, Mr. Boschat's self-incrimination on a single count meant that SoJP immediately reopened the possibility of charging Mr. Boschat under that same Law, against legal advice. Once Mr. Boschat had been charged, the investigation of the complaint was suspended.

The investigation was reopened as soon as the case was dismissed. It should be noted that the Chief Officer was confirming to the Chief Executive of the States that there was nothing substantive in the complaint well before the investigation was reopened. This is perhaps an exaggeration, as the report did not rule out misconduct.

Devon and Cornwall Report

The report of the complaint runs to a 33 page summary, 126 pages of written statements and 429 pages of exhibits. The redacted copy supplied to me was 6 pages long and is included as **Appendix 4** to this report.

The significant results are listed here from paragraphs 1, 3 and 5 of the redacted report.

1. **Mr. Boschat was prevented from tendering from the SoJP Vehicle Recovery rota.**

   The investigating officer ("IO") considered that there was no evidence that Mr. Harper committed any criminal offence. It was suggested that SoJP "*review their actions concerning Mr. Boschat's application to be included in the tendering process as breaches in legislation or policy could provide vulnerability for civil action*".

2. **The DCO communicated with the 12 Parishes, telling them not to employ Mr. Boschat and raising concerns regarding his integrity.**

   The report states that the IO contacted representatives of the Parishes to establish whether such communications had been received. This implies that copies were not kept on record; however, copies have been provided and are with the evidence collected. The IO stated that " the *replies do differ in tone …..on the balance of probabilities Mr. Harper did send out such a communication.*" and "*The SoJP may wish to review the actions of Mr. Harper in terms of how this can have restricted Mr. Boschat's trade and income.".*

3. **The DCO Restraint on Mr. Boschat's trade by the DCO directing that the SoJP should not call Boschat Recovery Service for members of the Public or Public Bodies who elect to use his service at the scene of RTCs or to remove obstructions, etc.**

   The IO noted that the Sussex review of Recovery procedures said the "*rota system at present is considered unlawful, the overriding principles are that owners have their vehicles recovered at their own expense and have the choice of recovery operators. Where necessary for public safety or reasons of incapacitation of the owner the police need to use their powers and at that point a rota system should be activated.*"

   The IO concluded that "*the SoJP may wish to review the actions of Mr. Harper in terms of how this could have restricted Mr. Boschat's trade and income*".

   It was also noted that there was no evidence of criminality, but that since the DCO had retired there was no potential for misconduct proceedings.

CONCLUSION

Over the past few years, Mr. Boschat has made strenuous efforts to obtain restitution for the injustice which has been visited on him. With the assistance of a number of politicians, notably Senator Sir Philip Bailhache, he has obtained legal aid in order to assess whether there are any legal avenues open to him. The Police, in their turn, are willing to admit that Mr. Boschat has been treated extremely badly.

As a result of the actions taken against Mr. Boschat, he has lost both his business and his house, and his marriage has been destroyed.

Unfortunately, direct legal action against the Police is not possible, since any action is now time-barred. Advice has been obtained from 2 firms of lawyers and their opinion is that the only avenue left is the States Assembly.

Mr. Boschat appeals to the States Assembly on the grounds that –

1. The accusations of obtaining work by grace and favour were untrue. He undertook the bulk of SoJP work because he was prepared to work all hours, was the most experienced, with 20 years working in the Island, and was the cheapest.

2. The letter written by the DCO to the Parishes and States Departments, whilst not criminal, was not based on evidence or a conviction in court and was libellous.

3. The action preventing Mr. Boschat applying to tender for the rota was based on allegations which had not been evidenced.

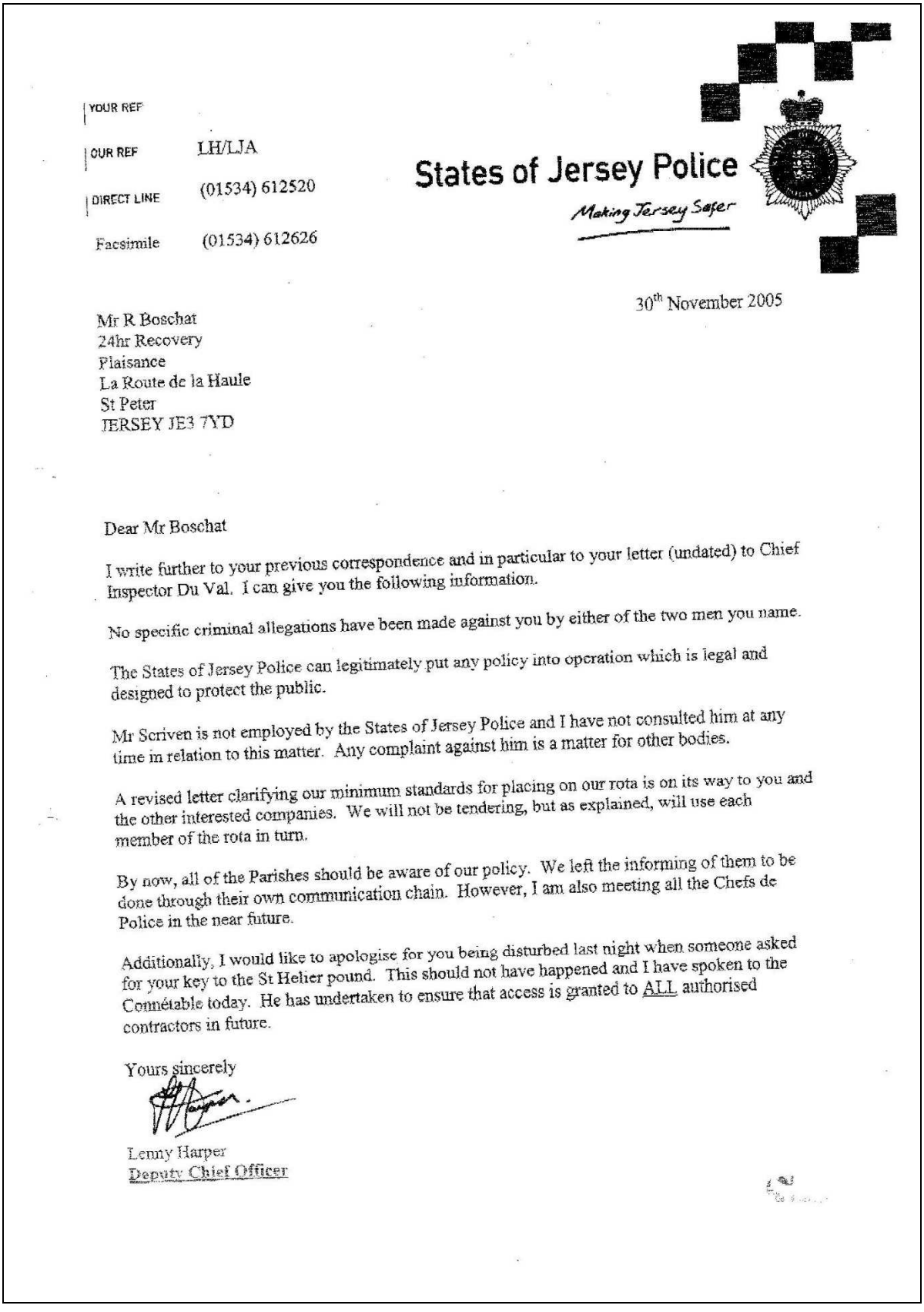
4. Prevention of any member of the SoJP calling Mr. Boschat on behalf of members of the Public in all circumstances was a restraint of trade.

5. The Police were aware that the other 2 firms on the rota were skewing the callouts on the rota and took no action.

Financial and manpower implications

These are set out in the attached **Appendix 2**.

FIGURE 1



YOUR REF

OUR REF LH/LJA

DIRECT LINE (01534) 612520

Facsimile (01534) 612626

States of Jersey Police

Making Jersey Safer

30th November 2005

Mr R Boschat
24hr Recovery
Plaisance
La Route de la Haule
St Peter
JERSEY JE3 7YD

Dear Mr Boschat

I write further to your previous correspondence and in particular to your letter (undated) to Chief Inspector Du Val. I can give you the following information.

No specific criminal allegations have been made against you by either of the two men you name.

The States of Jersey Police can legitimately put any policy into operation which is legal and designed to protect the public.

Mr Scriven is not employed by the States of Jersey Police and I have not consulted him at any time in relation to this matter. Any complaint against him is a matter for other bodies.

A revised letter clarifying our minimum standards for placing on our rota is on its way to you and the other interested companies. We will not be tendering, but as explained, will use each member of the rota in turn.

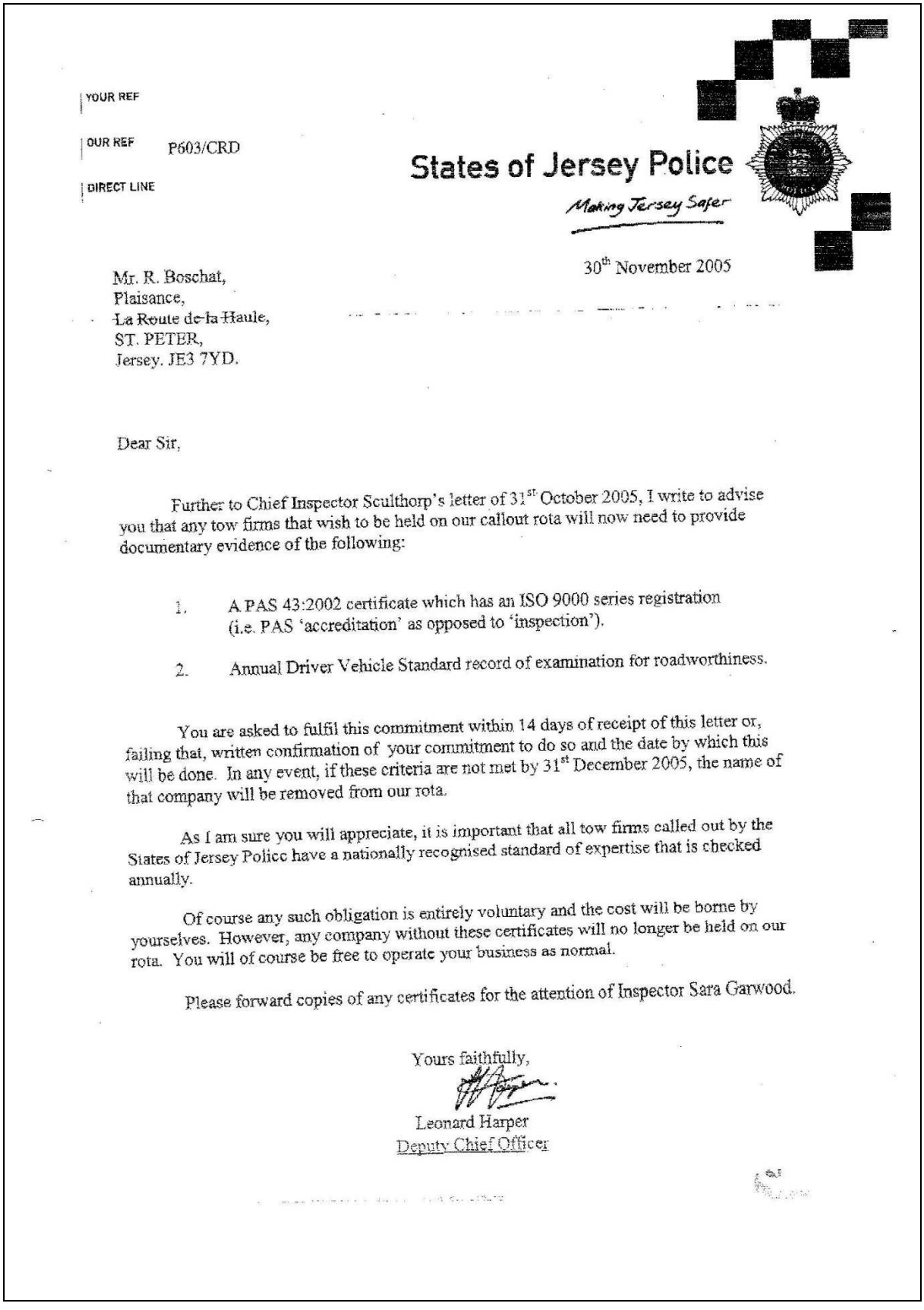
By now, all of the Parishes should be aware of our policy. We left the informing of them to be done through their own communication chain. However, I am also meeting all the Chefs de Police in the near future.

Additionally, I would like to apologise for you being disturbed last night when someone asked for your key to the St Helier pound. This should not have happened and I have spoken to the Connétable today. He has undertaken to ensure that access is granted to ALL authorised contractors in future.

Yours sincerely

Lenny Harper
Deputy Chief Officer

FIGURE 2



YOUR REF

OUR REF P603/CRD

DIRECT LINE

States of Jersey Police

Making Jersey Safer

30th November 2005

Mr. R. Boschat,
Plaisance,
La Route de la Haule,
ST. PETER,
Jersey. JE3 7YD.

Dear Sir,

Further to Chief Inspector Sculthorp's letter of 31st October 2005, I write to advise you that any tow firms that wish to be held on our callout rota will now need to provide documentary evidence of the following:

1. A PAS 43:2002 certificate which has an ISO 9000 series registration (i.e. PAS 'accreditation' as opposed to 'inspection').

2. Annual Driver Vehicle Standard record of examination for roadworthiness.

You are asked to fulfil this commitment within 14 days of receipt of this letter or, failing that, written confirmation of your commitment to do so and the date by which this will be done. In any event, if these criteria are not met by 31st December 2005, the name of that company will be removed from our rota.

As I am sure you will appreciate, it is important that all tow firms called out by the States of Jersey Police have a nationally recognised standard of expertise that is checked annually.

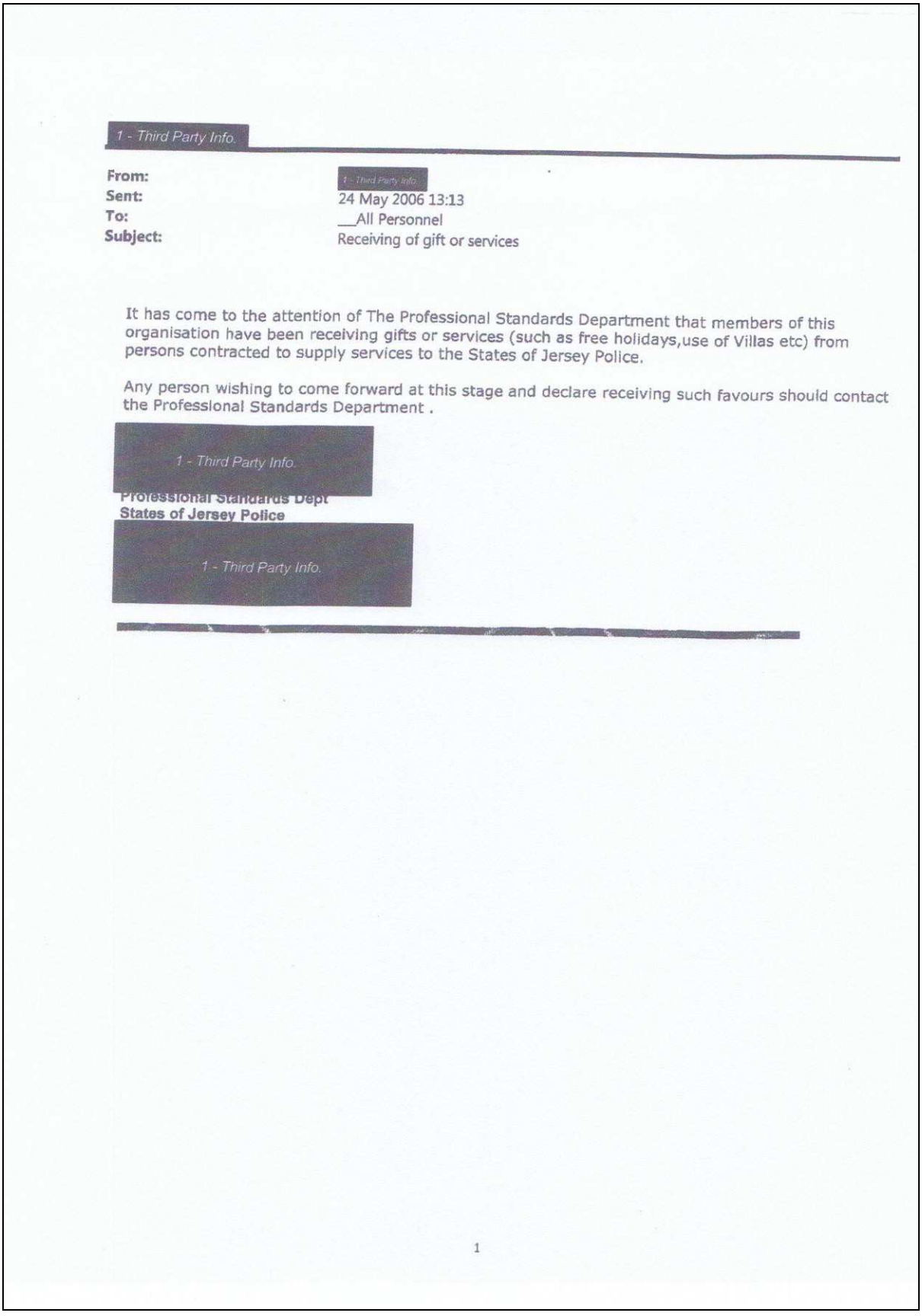
Of course any such obligation is entirely voluntary and the cost will be borne by yourselves. However, any company without these certificates will no longer be held on our rota. You will of course be free to operate your business as normal.

Please forward copies of any certificates for the attention of Inspector Sara Garwood.

Yours faithfully,

Leonard Harper
Deputy Chief Officer

FIGURE 3



1 - Third Party Info.

From: 1 - Third Party Info.
Sent: 24 May 2006 13:13
To: __All Personnel
Subject: Receiving of gift or services

It has come to the attention of The Professional Standards Department that members of this organisation have been receiving gifts or services (such as free holidays,use of Villas etc) from persons contracted to supply services to the States of Jersey Police.

Any person wishing to come forward at this stage and declare receiving such favours should contact the Professional Standards Department .

1 - Third Party Info.

Professional Standards Dept
States of Jersey Police

1 - Third Party Info.

1

FIGURE 4

CONFIDENTIAL - FOR POLICE USE ONLY

STATES OF JERSEY POLICE

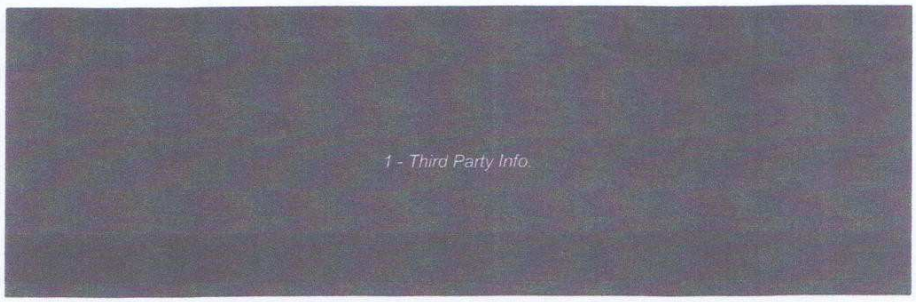
INTERNAL FORCE ORDERS No. 23 DATED 7th JUNE 2006

1. RECEIVING OF GIFTS OR SERVICES

Following the email sent to All Personnel by the Professional Standards department last week in relation to staff receiving gifts or services from persons contracted to supply a service to this organisation, it is clear that not all persons have come forward and declared such.

All staff concerned are asked to declare such **no later than 18th June 2006.**

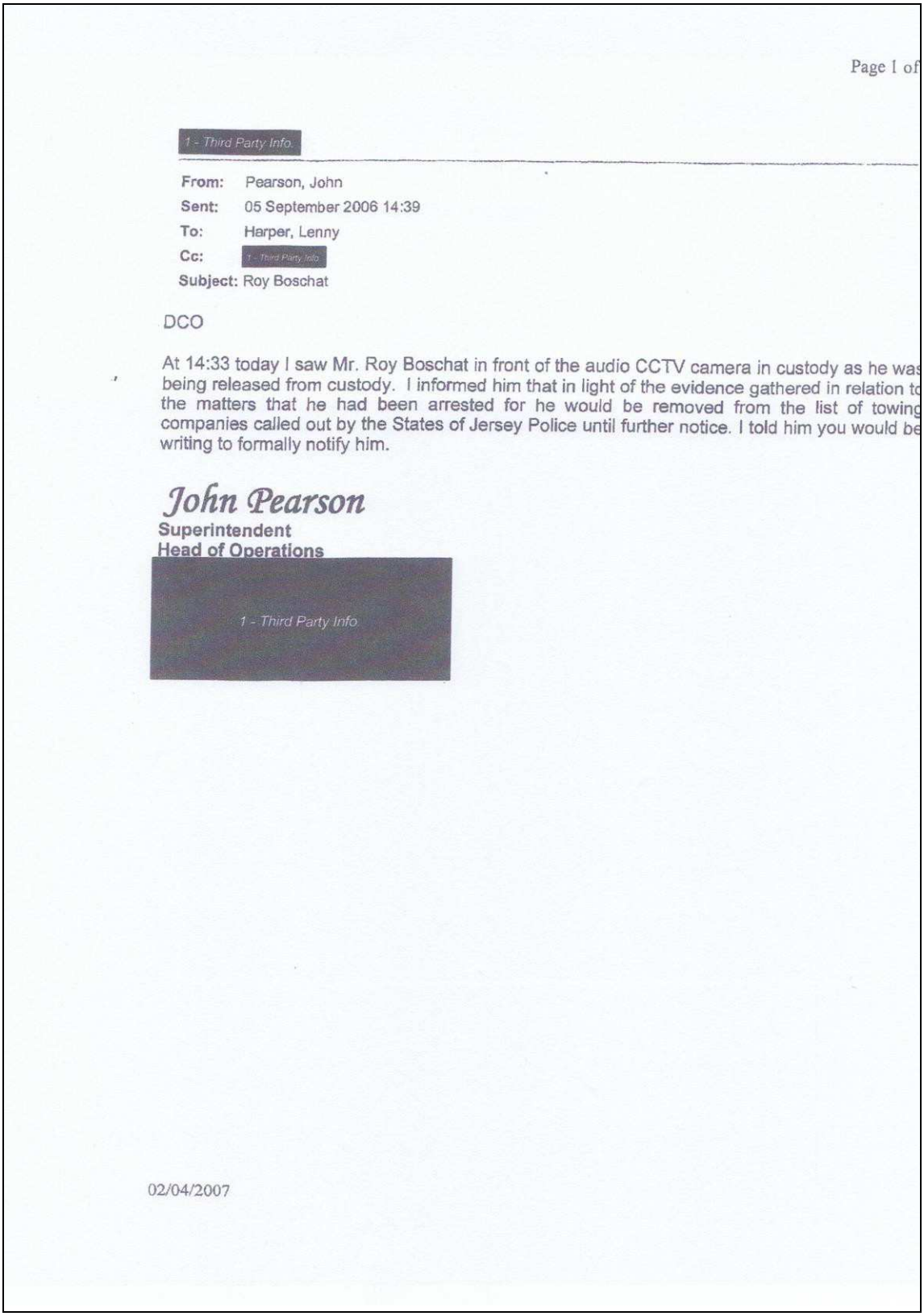
Anyone failing to do so by that date, and who is subsequently found to have breached the policies in place, will be liable to Discipline proceedings.



DEPUTY CHIEF OFFICER

CRD/MH/PO2006

FIGURE 5



Page 1 of

1 - Third Party Info.

From: Pearson, John
Sent: 05 September 2006 14:39
To: Harper, Lenny
Cc: 1 - Third Party Info
Subject: Roy Boschat

DCO

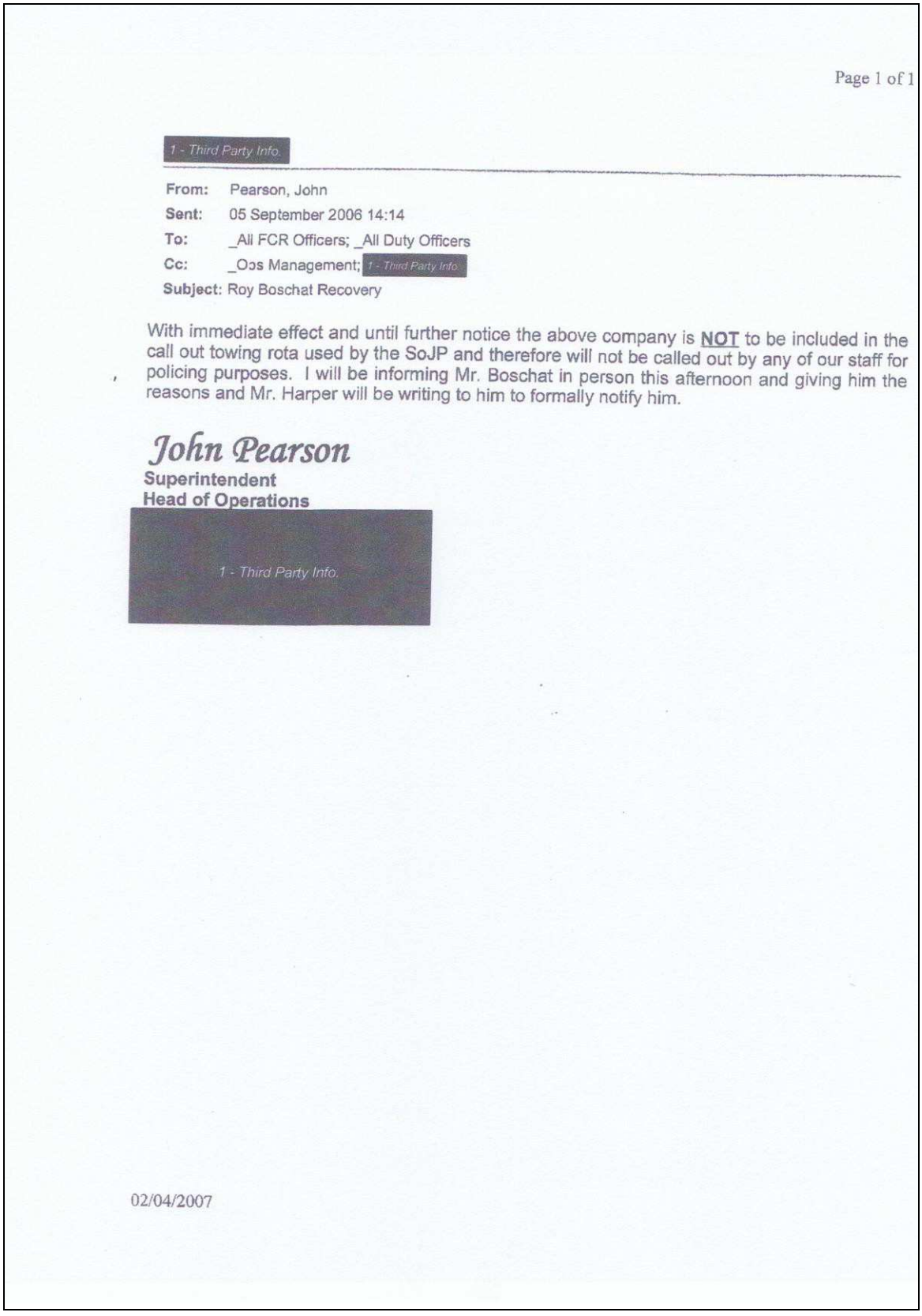
At 14:33 today I saw Mr. Roy Boschat in front of the audio CCTV camera in custody as he was being released from custody. I informed him that in light of the evidence gathered in relation to the matters that he had been arrested for he would be removed from the list of towing companies called out by the States of Jersey Police until further notice. I told him you would be writing to formally notify him.

John Pearson
Superintendent
Head of Operations

1 - Third Party Info

02/04/2007

FIGURE 6



1 - Third Party Info.

From: Pearson, John
Sent: 05 September 2006 14:14
To: _All FCR Officers; _All Duty Officers
Cc: _Ops Management; 1 - Third Party Info.
Subject: Roy Boschat Recovery

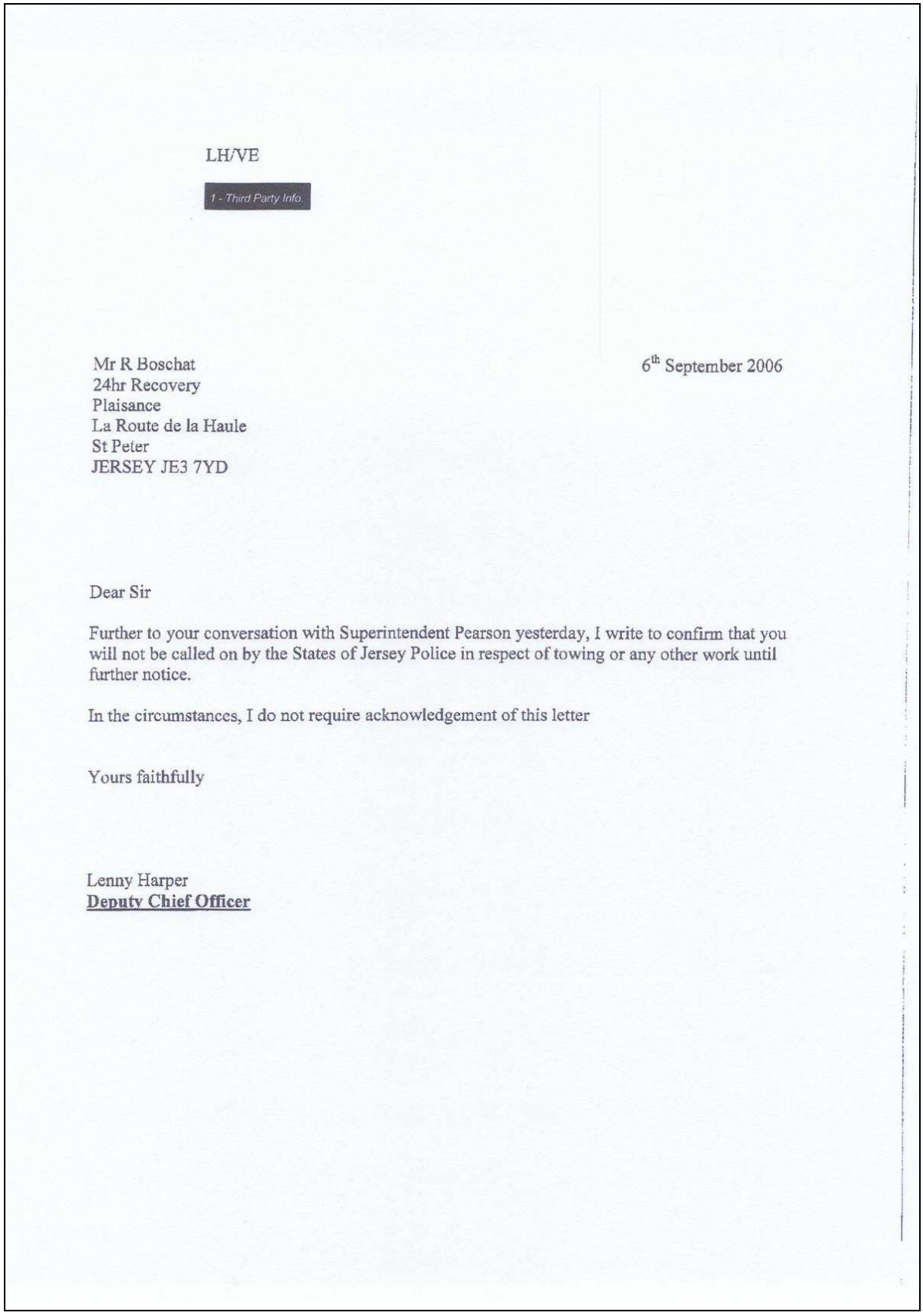
With immediate effect and until further notice the above company is **NOT** to be included in the call out towing rota used by the SoJP and therefore will not be called out by any of our staff for policing purposes. I will be informing Mr. Boschat in person this afternoon and giving him the reasons and Mr. Harper will be writing to him to formally notify him.

John Pearson
Superintendent
Head of Operations

1 - Third Party Info.

02/04/2007

FIGURE 7



LH/VE

1 - Third Party Info.

Mr R Boschat
24hr Recovery
Plaisance
La Route de la Haule
St Peter
JERSEY JE3 7YD

6th September 2006

Dear Sir

Further to your conversation with Superintendent Pearson yesterday, I write to confirm that you will not be called on by the States of Jersey Police in respect of towing or any other work until further notice.

In the circumstances, I do not require acknowledgement of this letter

Yours faithfully

Lenny Harper
Deputy Chief Officer

FIGURE 8

LH/VE

01534 612520

Connétable Crowcroft
PO Box 50
Town Hall
St Helier
JE4 8PA

12th September 2006

Dear Connétable

First of all can I emphasise that the following information is extremely sensitive, relates to an ongoing criminal investigation and must not be copied, or disclosed to any other person without the written authority of the Deputy Chief Officer of the States of Jersey Police.

Following an eighteen month investigation by the Force Professional Standards Unit, two men were arrested on Tuesday, 5th September 2006. One of these men, a serving Police Officer, has been charged with forty two criminal offences under the Misuse of Computer Law. A report is also being sent to the Attorney General in respect of charging both men with offences of Bribery and Corruption and Conspiracy to Defraud.

Because of the nature and extent of the evidence gathered, this force has found it necessary to remove the Breakdown Company 'R. Boschat 24 Hour Recovery' from the authorised list of those we do business with. This is as a result of the direct connection with that company of the second man arrested.

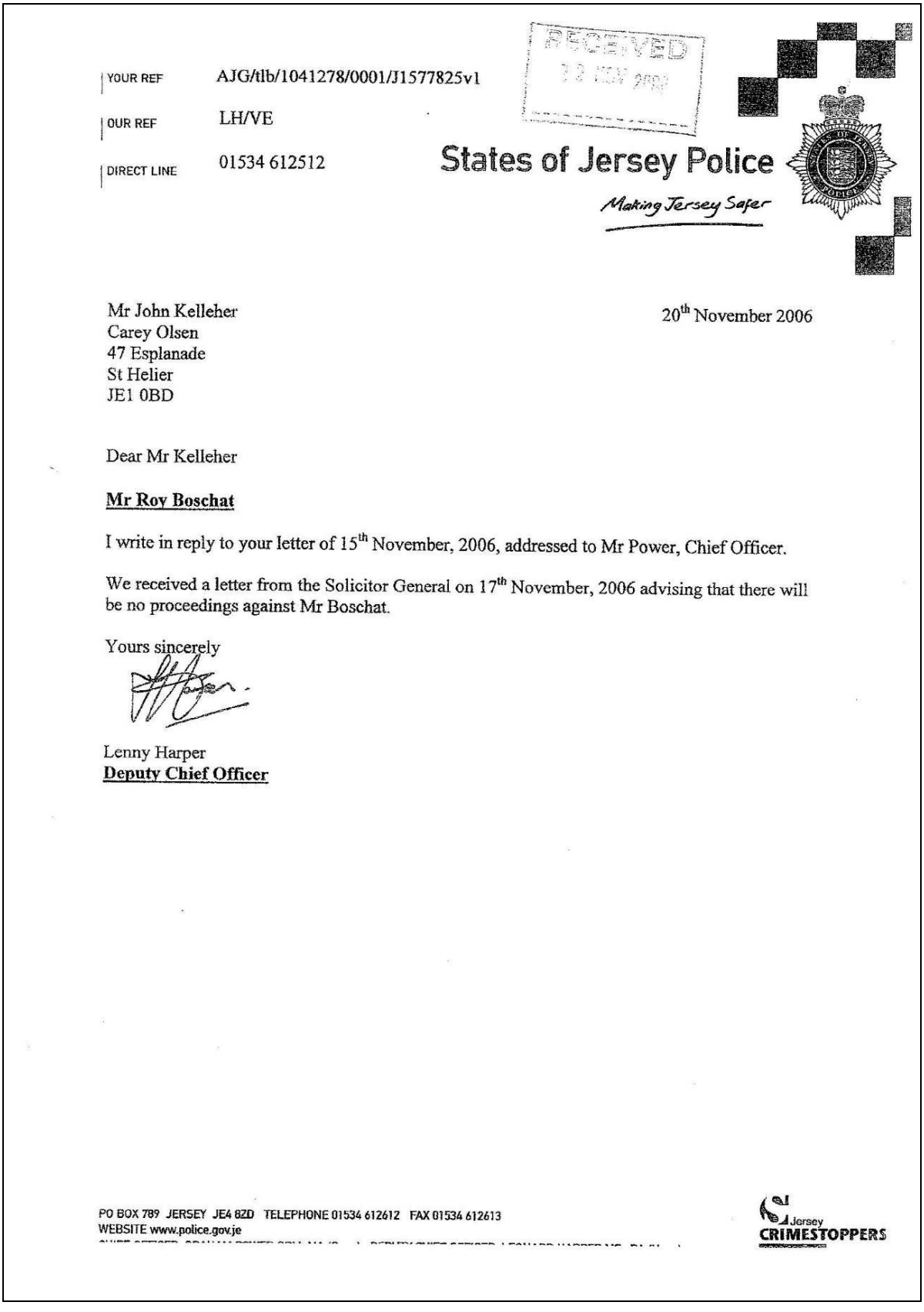
The evidence that we have shows a systematic and sustained attempt by at least one States of Jersey Police Officer and this company to dishonestly acquire for 'R. Boschat Recovery', a disproportionate share of the business from the States of Jersey Police. This has entailed the falsification of official records, lying to members of the public, and the receipt by Police Officers of favours and gifts. It can be proved that the Police Officer who falsified official records to bring business to this company, received items such as cheap diesel, free breakdown services and use of a Spanish Villa in return. Evidence will show communications between the Officer and the company which detail the conspiracy. In addition, over twenty police officers have admitted being in breach of Force Integrity Policies by receiving free gifts and favours from the company.

It is clear from all of this, and from further intelligence, that other agencies using this company are themselves vulnerable to the same type of attack on their integrity. There are also issues of Public Protection and the use of Public Money. For those reason I see a clear need to disclose these matters to you under the conditions outlined at the start of this letter. Whilst the States of Jersey Police have no wish, nor indeed right to seek to influence you internal decision making, I feel that it is our duty to make this information available to you to give you every opportunity to carry out your responsibilities in the way you think best.

Yours faithfully

Lenny Harper
Deputy Chief Officer

FIGURE 9



YOUR REF AJG/tlb/1041278/0001/J1577825v1

OUR REF LH/VE

DIRECT LINE 01534 612512

RECEIVED 12 JAN 2007

States of Jersey Police

Making Jersey Safer

Mr John Kelleher
Carey Olsen
47 Esplanade
St Helier
JE1 0BD

20th November 2006

Dear Mr Kelleher

Mr Roy Boschat

I write in reply to your letter of 15th November, 2006, addressed to Mr Power, Chief Officer.

We received a letter from the Solicitor General on 17th November, 2006 advising that there will be no proceedings against Mr Boschat.

Yours sincerely

Lenny Harper
Deputy Chief Officer

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Jersey CRIMESTOPPERS

FIGURE 10

WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS BY DEPUTY S.C. FERGUSON OF ST. BRELADE

ANSWER TO BE TABLED ON TUESDAY 13TH MAY 2008

Question

Will the Minister give:

a) the total costs of the towing away of vehicles for 2005, 2006 and 2007 as instructed by the police and on their account, by year,

b) the total reimbursements payable by owners of those vehicles for the same periods

c) the amount still outstanding for collection from the owners of those vehicles.

d) The number of vehicles towed away under police instructions and orders per year for 2005, 2006 and 2007.

Answer

a) The total costs of the towing away of vehicles for 2005, 2006 and 2007 as instructed by the police and on their account, by year follows:

2005	£22,405
2006	£27,212
2007	£38,840

b) The total reimbursements payable by owners of those vehicles for the same periods.

Where a vehicle is involved in a minor traffic accident and the States Police send a recovery vehicle to the scene, the Police are not liable for the cost. The recovery company bills the owner direct.

Vehicles that have been recovered by police after being stolen or sent to DVS for examination are those in respect of which cost recovery has, in the past, not been made from owners. However, following a review of the States of Jersey Police's vehicle recovery policy, it has been identified that current legislation was not being used to its full extent to recover the cost in this category of vehicle recoveries. It was also established that whilst the audit trail under the current system identified and verified each request by police for a vehicle to be recovered, it sometimes did not distinguish the category of recovery and therefore those liable for the cost. As a result, the States of Jersey Police do not have figures available for cost recovery from vehicle owners for the years in question. A new draft police vehicle recovery policy has been developed which will address these issues.

c) The amount still outstanding for collection from the owners of those vehicles.

Not available for the reasons previously stated.

d) The number of vehicles towed away under police instructions and orders per year for 2005, 2006 and 2007 follows:

2005 – 373
2006 – 453
2007 – 647

3. Executive summary and Recommendations

3.1 Points for consideration in the immediacy

There is an undoubted need to change from the current system employed by the SOJP in the way they manage the process of vehicle recovery which they are lawfully authorised to undertake.

Key points are:

1. The Force is extremely vulnerable to fraud and corruption within its current operating practices by having very poor processes for managing the monies and auditing recoveries

2. The impending change to budget heads will mean that vehicle recovery costs will no longer be hidden within the larger budget head of 'Courts' and greater scrutiny and tighter budget setting will need to be in place.

3. The Force is operating outside of its lawful authority and in doing so makes itself vulnerable to tort and civil litigation.

4. The recovery process is inconsistent resulting in poor service delivery to the public and disgruntled contractors.[22]

5. There are significant training gaps which undermine the professionalism of the force

6. There is no clear ownership of the process which results in policy and operating procedure deficiencies. This has led to intervention by staff at varying levels within the organisation and each having a go at some part of the problem without someone taking overall ownerships resulting in un-coordinated practices.

7. Failure to clearly define to operators what exactly their role was, how it would be managed, avenues for complaints or resolution of operational issues, lack of inspection, and a failure to understand their capabilities.

8. A failure in the lawful duty of care required by **Article** 4 Road Traffic (Removal of Vehicles) (Jersey) Order 1963[23]

9. The apparent double standard in the relationship between SOJP and its recovery operators which is made more acute through the absence of policy or guidelines on procurement of services and what constitutes a 'fit and proper' business to be aligned with.

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[22] It is probably only one which is now disgruntled but the application of what is considered a double standard is not seen as ethical and undermines the overall outcome.
[23] It is fully accepted that Parish compounds are not under the jurisdiction of SOJP however that distinction is not made within the laws.

10. A considered judgement that the conditions of PAS43 accredited status for recovery operators is beyond the lawful authority of SOJP. What if they collectively said 'no'? There are no other practical options available.

11. The recent in-house scheme (2004) set up on the Isle of Wight charges a management fee for the handling of the call outs which its uses to offset administration costs. Such a provision can be a consideration for Jersey[24]. Albeit they operate under UK vehicle recovery legislation and statutory charging applies. Nevertheless for vehicle recoveries and under Jersey law this is seen as a very viable option.

Through the correct application of the law alone SOJP has the potential to save a substantial sum of money from the public purse. It was considered never the intention of legislators to recover vehicles at public expense[25].

These are seen as areas which can benefit from immediate attention and the recommendations provide possible solutions for the Force to now consider.

3.2 Points for consideration in the medium to long term

The following points are those where the overall efficiency of the process can be improved but are outside the direct control of SOJP and need other stakeholders and the States Parliament to become engaged:

- Single or brigaded compounds to produce cost efficiencies and savings.
- Clarity from legislators on the terminology used within the laws on "recovered as a 'civil debt' from owner of the vehicle". As an example given by **Article 5** Road Traffic (Removal of Vehicles) (Jersey) Order 1963[26] .Where does this responsibility lie. It is our contention in the absence of case law that it is not with the SOJP this is a position which needs to be avoided.[27]
- The inefficiencies which result from having three recovery operators, 13 police forces[28], 15 compounds[29] in a geographic area of 45 square miles which all need to be coordinated.

3.3 summary of overall review

There is no doubt that the current senior command team are focussed on professionalising the SOJP. Their willingness to have this review undertaken in the knowledge it would reveal a number of shortcomings is a demonstration of

[24] See exhibit DKJ1 section 6.7
[25] See Legal Section 5.1 Introduction
[26] It is fully accepted that Parish compounds are not under the jurisdiction of SOJP however that distinction is not made within the laws.
[27] See Legal section 5.2
[28] The States police and the 12 Honorary Police Forces
[29] There are 12 Honorary Police Force, DVS, Housing and Technical Services compounds. Does not include the temporary arrangements to impound vehicles at SOJP HQ

strong leadership and getting to the heart of the problem in order that it may be resolved.

Culture is the product of history and operating environment, given both for SOJP there is an inevitability that processes which are on the fringe of policing[30] are sometimes neglected. It often takes a more serious issue to focus attention on such areas which has been the case now. The fact that there were 526 recoveries amounting to 1.44 per day puts this is to perspective. However, where the expenditure of public funds is involved there needs to be rigour in the processes to allow proper audit, tight budget setting and reduce the risks to the organisation.

There are some areas that need attention, but most of them could be put right quite quickly[31]. What ever is introduced it needs to be open and fair, working to the highest standards of integrity. At the present time the integrity of the system is being let down by the training and knowledge of the officers involved and poor processes.

There is a need for customer focus, especially with regards to the difference in pricing regimes. At present there are problems with charging, the individual contractors charge what they think is fair. There is scope to negotiate preferential rates for those tows which SOJP will ultimately pay for and this should be the way contractual agreements are pursued, with adequate safeguards to re-negotiate prices at set periods. The rates charged to the public are subject to market forces and that is quite reasonable. The review does not advocate moving to legislated statutory charging which is felt adds another level of bureaucratic complexity, in an already complex operating environment.

As a consequence of unknown rates, poor record keeping and poor application of the law it is impossible for a budget to be set. You have no idea what your costs are going to be. There needs to be robustness for the rates charged, application of the law and who pays the bills. This will be crucial when the budget heads are changed and audit is higher on the agenda. Clarity of ownership is paramount; it is considered that unless there is clear ownership then the problems will be tackled piecemeal resulting in failure. The ownership needs to be at Chief Inspector Operations level for SOJP with day to day running delegated to either Inspector or Sergeant to ensure tight control. This is seen as the first stage, once rigour has been imposed on the process overall and staff are operating within the framework of the law the ownership of vehicle recovery can be reappraised.

In the absence of guidelines it is very difficult to maintain standards and consistency in decision making. Because there is no SOJP policy or contractual arrangements in place which clearly set out the operational need of the organisation to the recovery operators they each develop different interpretations. Proper consideration to the contract and clauses which direct consultation at regular intervals, inspection and compliance with an approved method of recording activity are essential.

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[30] ACPO view vehicle recovery as non-core policing activity ACPO guidance May 1999
[31] Within 4 to 6 months

The SOJP rota system at present is considered unlawful, the overriding principles are that owners have their vehicles recovered at their own expense and have the choice of recovery operators. Where necessary for public safety or reasons of incapacitation of the owner the police need to use their powers and at that point a rota system should be activated.

Stolen vehicles[32] or those subjects of TADA can be recovered at the owners' expense and this will not hamper any forensic capture policy. This argument is given at Section 5. With 116 vehicles subject of TADA[33] there is a substantial saving to be made given the likelihood of 158 vehicles in total being recovered at SOJP costs in 2005[34] and many TADA's are currently recovered at SOJP expense.

As far as the number of tow contractors market forces have led to the present number and they all believe there is enough work to sustain the status quo. From the review it is considered on a commercial basis it may shake down to just two in the future, [redacted]. Each of the three have developed their own niches that they work within and the SOJP work only averages out about £8,000 per annum of their respective businesses. However, all see an SOJP contract as extremely valuable it provides a revenue stream in a restricted market which they use to maintain and upgrade their fleets[35].

At present there are an excessive number of compounds used for vehicle recovery. One central compound would be the best ultimate solution; the three tow contractors see this as the way forward. [redacted]

In interview they have said that there would be problems with a central compound, mainly because of the area of land that would be needed and also planning permission may prove a difficult hurdle. For that reason it is suggested the States Parliament need to consider the benefits and reach a decision. If the decision is to stay with the present set up then there should be a common standard with the compounds. SOJP and the Honorary Police should define what an acceptable standard is for a compound. There must be safeguarding of property and access for all contractors should be the same.

It may be that parishes could brigade together in compound provision, joint compounds would be more suitable especially bearing in mind the very low vehicle numbers that some Parishes handle in their compounds. Costs savings from land becoming available from the redundant sites can offset any costs of added security and proper provision for the storage of property and vehicles.

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[32] The necessary ingredient of 'intent' is difficult to prove in the Islands context. Normally offenders when charged are with 'Taking And Driving Away'(TADA) as given in the Road Traffic (Jersey) law 1956

[33] 116 is the average number of TADA's over the last 3 years taken from a report by Sergeant Lee Turner. However, ilog data produced as LT/5 puts the figure for TADA at 39 for 2005

[34] The record keeping is very poor. Without painstakingly examining all records a random sample through two separate selection criteria predicted that 158 was the number recovered in 2005.See section on Tow Analysis

[35] [redacted]

[36] The overall fleet held by all three is excessive for the work and staff they employ. See interviews

If the number of compounds was to be reduced this would also require a reduction in the time that it took to dispose of unclaimed vehicles this may be from six weeks down to four weeks.

There has been very little contact between the tow contractors and SOJP over time one states that they had not been visited by the police for 15 years. This has developed to distinct breakdown in trust. Clarity of ownership will help in the overall running of the scheme however, it is felt that to start the process the use of a change agent or independent third party to act as the honest 'broker' in setting out the contracts, the operational need, education of operators on the law and starting the scheme will be extremely beneficial..

There should be regular formal inspections of the tow contractors by SOJP to ensure they are at the required level and to know what equipment they each have[37]. Also a regular forum for them to air any problems needs to be factored into any contract or negotiated agreement. These forums would allow the operational function to be improved by mutual understanding of respective problems and resolution through prompt intervention.

Having interviewed the three tow contractors they are at the point where they are looking for their respective businesses to go forward from the independent review which may act as the catalyst to allow both sides to progress without loss of status or credibility.

The changes are far reaching and as such will need a degree of consideration and planning. There are the more urgent requirements to tighten up on the financial processes which need to be pushed through under the clear guidance of the nominated lead. However, training and educating staff to the application of the law will need to be managed, as will the education of recovery operators and other interested stakeholders. There is no reason why all recommendations need to happen simultaneously, in fact some will be a natural progression of others.

With the 12 Parishes operating in a manner where each in effect has its own vehicle recovery scheme then the current fragmented situation has arisen with each scheme not being coordinated with the others. It is considered not the responsibility of the business community to link up these public bodies, it's the responsibility of those public bodies to ensure that they are properly able to account for public money expenditure and tender for services which deliver value for that money if necessary from the business community. The current overall system will never be value for money the best is improved efficiency within its operating constraints.

[37] Evidence from interview (Crowell) show that SOJP staff believe the capability to forensically recover vehicles without damage to the steering geometry is held by one contractor, when in fact the capability is held by all three.

3.4 Strategic objectives

The following are seen as the strategic objectives for the improvement of vehicle recovery services for SOJP.

- Reduction of organisational risk arising through corruption and civil litigation opportunities
- Reduction of risk arising through improper application of the laws
- Improved efficiencies within current operating environment
- Improved efficiencies through strategic changes to operating environment

3.5 Recommendations

- **3.5.1 Strongly recommend** that SOJP appoint a nominated lead not below the rank of Chief Inspector to carry forward all approved recommendations from the review.
- **3.5.2 Strongly recommend** that the Force reduce its vulnerability to risk by the immediate introduction of new procedures for the recovery of vehicles which links the recovery operators with front line staff at the scene through a carbonated work sheet which is tracked through into payment. A process example is provided

1. A carbonated form is generated which is allocated to all approved operators. This form* is signed off at scenes of SOJP recoveries by the officers present. One copy is retained by the officers and submitted to a nominated responsible officer. Two copies are retained by operator. All copies are colour coded.
2. The form contains details of the work undertaken and an ilog reference. The form must be signed off at scene and must have the ilog reference.
3. The form must record the lawful authority under which the vehicle is being recovered and clearly indicate who is responsible for payment. This may be a derivative of the tabulated interpretation of the laws as presented in the legal section. This can also be appended to the carbonated form in a tick box format to save the officers carrying extra paperwork. In most cases the owners or driver will be responsible for payment. If this is the case and they are not present or incapacitated these details must be provided to the operator under the authority of the Data Protection (Jersey) Law 2005 Article 31

4 The tow logs are kept on a spreadsheet application and designed to incorporate ilog reference and filtering so that analysis can be undertaken when required. Completion of which is the responsibility of the control room supervisor.

5 All invoices submitted must be accompanied by a copy of the operators' attendance sheet duly signed at scene by SOJP staff to the nominated lead. Invoices must be to a standardised format agreed by all stakeholders

* Two sample forms are appended Recovery Analysis Section (RD/1 & RD/2)

- **3.5.3 Strongly recommend** that the Force devises a contractual agreement with its recovery operators based on the ACPO (T) Police Vehicle Recovery Group Standard Specification (May 2000). This is not an exhaustive list but sets out guidance on some of the issues which may need consideration.

  1. 'Fit and Proper persons/business' which will need to be defined. It may include conditions on previous convictions, association with known felons as examples. Section 2 ACPO Standard Specification (May 2000) gives further examples for consideration.
  2. Standards meet all Jersey Health and Safety and vehicle condition and maintenance legislation to the highest enforceable levels.
  3. Inspection clause by SOJP at defined intervals and freedom for some random visits
  4. Attendance at periodic operators' forums[38]
  5. Scope to change operating practices without formal re-negotiation of all terms through the operator forum
  6. Negotiated rates for SOJP recoveries open to periodic re-negotiation. All SOJP recoveries are 100% cost recoverable to the operator therefore a negotiated preferential fixed rate is seen as reasonable.
  7. Attendance time of 25 minutes to incidents
  8. Compliance with management processes to record recoveries and the submission of invoices to tighten up the auditable side of the business
  9. Negotiated levy on recoveries which is used as an administration fee by SOJP. This is seen as good practice by the review team and is being applied in the Isle of Wight (see Tow Analysis subsection 7.6 for possible cost neutral operation with such a fee set at £11.52p)[39]

- **3.5.4 Strongly recommend** that a stakeholder forum is held and facilitated through an independent third party to set out the changes, educate parties in the application of the law and set out the new operating practices

[38] To be held quarterly.
[39] Based on 2005 data. Such a levy would need to be considered against cost neutral operation or reduced cost operation. £11 is about 7% of current average tow cost of £141. It may be politically more acceptable to have a 5% handling charge (£7) and a reduced cost operation In any event the figures are based on the 2005 data presented to the review which is not full enough to conduct an in depth analysis. Therefore the figures presented are speculative

industry standard within the States of Jersey. The alternative is to set out the requirement to meet all pertinent Jersey Health and Safety Law and Vehicle maintenance Laws applicable to the Industry for the States of Jersey and ensure those standards through inspection.

- **3.5.14 Recommend** that some of the recommendations made by Sir Cecil Clothier in his review on Policing Services in Jersey 1996 are re-considered. These may well produce the right climate for streamlining this as well as a number of policing policies and acts not to denigrate the historic community position of the Honorary Police but allow the greater economies of scale efficiencies for vehicle recovery that have the potential to make savings on the public purse. Such as;

    1. The twelve Parishes should be drawn together by the creation of the post of Chief of the Honorary Police, equivalent in all respects to the Chief of the States Police.
    2. The Chiefs of the Honorary Police and the States Police should jointly command the total police service of the Island each being in charge of his own force.
    3. Any disagreement on policy between the joint chiefs should be decided by the police Committee or Authority.

- **3.5.15 Recommend** that the States Parliament consider ways in which to reduce the operational complexities for the recovery of vehicles by the brigading or single site operations of compounds.

- **3.5.16 Recommend** that the nominated lead and others associated with driving through these reforms serve a two week attachment to a UK Force to gain first hand experience of vehicle recovery schemes and their operation[42]

- **3.5.17 Recommend** that any further seizures of mini-motos are suspended unless under a lawful enactment.[43]

- **3.5.18 Recommend** That following an initial programme of reform designed to tighten up the process a further review is conducted to validate the outcome[44]. This further reviews' added purpose is to evaluate in more detail the recoveries undertaken in order that an accurate profile can be produced and budget and any handling charges can be properly set.

- **3.5.19 Recommend** That following any programme of reform to improve current practices use is made of analysis for the identification of system faults such as the issues of 'end of life vehicles' of low nominal value with no clear ownership. Who carries the risk of recovery as an example? Is there an opportunity to dispose of such vehicles within a much tighter time frame? What needs to be avoided is

[42] Sussex is willing to support SOJP in all areas of this work.
[43] Evidence from the Ilog shows the seizure of a mini-moto under Road Traffic legislation which was unlawful and opens the Force to risk of tort.
[44] The follow up review needs to take place about three months after start up so there is some data available. It should also incorporate further follow up interviews and monitoring of an operators forum.

- **3.5.5 Strongly recommend** that the lawful application of the authority to recover vehicles is put in place through training to staff and education to the public through the media. The application of the laws as set out in the Legal section if validated by the legal department of SOJP can serve as a useful guide to operational staff. Also refer to the process charts given at **5.4.1 Legal Section** which translate the law into a decision making process which will assist policy makers and can be used to assist the education of recovery operators. **Section 5.4.2 Legal Section** also sets out a draft form which can be served on the public by staff at the scene or by letter if the owner is not present or is incapacitated. The purpose is to reduce front line friction with the public by explaining their liabilities.

- **3.5.6 Strongly recommend** that the Honorary Police are part of the stakeholder forum and are encouraged to consider their lawful obligations under the provisions for safe custody of seized vehicles.

- **3.5.7 Strongly recommend** a definitive legal interpretation on the term 'recovered as a civil debt' within the legislation which is recognised in any training package devised.

- **3.5.8 Strongly recommend** that SOJP create policy which sets out the way in which procurement of services are to be conducted

- **3.5.9 Strongly recommend** that SOJP amends the current rota policy to reflect its lawful obligations as set out in the legal section. It also has serious operational risk associated with its current rigidity see **exhibit ilog/375** section 8.1.2.1

- **3.5.10 Strongly recommend** that SOJP maintain the recovery budget at 2005/06 levels until the affects of the application of the laws is known.

- **3.5.11 Strongly Recommend** that the 2005 accounts are audited in more detail. The analysis shows some variations in average tow costs which are not able to be explained with the data provided. For example the low average cost of tows conducted by [redacted] the disparity in number of recoveries shown as responsible by SOJP for payment and that predicted. The review team accepts that dip checks have been conducted but these are subject to the same problems perhaps faced by the review team, sample size and time constraints[40].

- **3.5.12 Recommend** that SOJP invite Roy Boschat back onto the recovery operators' scheme[41]. The ethical issues of double standards demean the professionalism of the Force. The review considers the appointment of three contractors totally suitable for all operational needs of the Force. The serious operational deficiencies found with [redacted] operating practices and their impact on front line policing cannot be underestimated.

- **3.5.13 Recommend** SOJP consider dropping any condition for PAS43 accreditation within any future contractual agreements unless it becomes an

[40] See interview Duvall which indicates the pressure on conducting the dip checks
[41] In the absence of any charges of corruption

allowing vehicles to be deliberately abandoned so that they are recovered at public expense. This means that legislation which prevents owners from being anonymous needs to be assessed which has not been part the review. This will allow the States Parliament to then debate whether the laws are sufficiently robust.

It is considered that if these recommendations are implemented it will present SOJP with the opportunity to put into practice a cost reduction recovery scheme. The problems that it faces are not insurmountable and through; ownership, stakeholder compliance by contractual agreement; policy and training within the resource constraints of SOJP it is a highly achievable objective to create an overall efficient and robust system for the removal of vehicles which is fully auditable and caters for; the removal, storage and disposal of all vehicles and properties recovered using police powers, including all financial transactions within the constraints imposed by the overall operating environment.

Superintendent Paul Morrison
Head of Sussex Road Policing (UK)

APPENDIX 2

Financial and manpower statement

The immediate effect of the changes in rota was that the contribution to turnover fell by at least two-thirds. In effect, it was slightly more according to police records. If either of the other 2 companies on the rota was called and was unable to attend, they would immediately call each other to attend. Eventually the effect of moving to a rota was such that the cost of vehicle recovery increased by 41%. This underlines the fact that Mr. Boschat was offering very good value for money, and explains why originally he was given the bulk of the business.

As soon as the arrest was made, the news was apparently conveyed to recovery organisations such as the RAC, insurance companies and hire car companies, and that work was also removed by those organisations. By 2007, turnover had halved (*see* Appendix 2(1)). The change in volume of Police work can be seen in Appendix 2(2).

At the same time, every effort was being made by the Police to take Mr. Boschat to court over the minor computer incident which occurred in court. It arose from poor legal advice to Mr. Boschat and it took up time and also necessitated additional expense.

As a result of these machinations, it eventually became impossible for Mr. Boschat to keep up the mortgage payments on his house, and led to the break-up of his marriage. The house was sold recently and cleared the outstanding mortgage and other indebtedness.

Any claim therefore must take into account loss of profits and compensation for the complete destruction of his life. It should enable Mr. Boschat to purchase a modest unit of accommodation and give him a foundation on which to rebuild his life. His profits had enabled him to meet annual mortgage expenditure of £38,406 on a house worth in the region of £600,000 and to maintain a reasonable standard of living.

The changes in charges arising from the changes proposed by the Police were considerable. Mr. Boschat charged £240 for a total crane-lift of a family car after a fatal accident, whilst for a standard tow he charged between £45 and £55 depending on the distance. The standard charges being considered by the Police for the rota for towing a family car were between £150 and £300.

As a result of these charges, the towing costs increased substantially in 2007, as shown by the answer to this written question in the States (*see* Figure 10).

Appendix 2(2) includes part of an analysis by Sussex Police into the recovery system. This particular piece of work was investigating the current rota and whether it was unbiased. What was discovered was that the close association of the other 2 companies on the rota was such that if either of them could not undertake work on the callout, then they would pass it on to the other. This ignored the rota and effectively cut Mr. Boschat off the rota. The result of the analysis was that it was emphasized that if one contractor was unavailable, it was the duty of the Police to revert to the rota or to hold the contractor called responsible for the arranging of further recovery capacity, thus allowing the Police to remain commercially unbiased.

Appendix 2(1) shows the destruction of Mr. Boschat's business. The adoption of the rota in 2006 caused an immediate drop in turnover from Police business by two-thirds. This was exacerbated by the letter by the Deputy Chief Officer (*see* Figure 8) in autumn 2006, which cut his States and Parish work. At that time, Mr. Boschat had contracts with 9 of the 12 Parishes and most of the States work. This was therefore reduced. The arrest in 2006 started a reduction in hire car and insurance work, as can be seen by the drop in turnover, and this was reduced again by the charging in early 2008.

At the same time as his business was being reduced by about 59%, Mr. Boschat had to cope with the requirement to get his equipment checked for compliance with PAS43, the UK standard, in a very short time over Christmas 2005. This was expensive, and the validity of its legality in Jersey is doubtful, particularly as no copy of the documentation existed in Jersey.

Following this, Mr. Boschat had to cope with the financial pressures occasioned by the Court case, which were so significant that finally he represented himself.

Mr. Boschat could be expected to have had at least 20 years' expectancy of working, and the actions of the States of Jersey Police have deprived him of the proceeds from that work. Added to that, there is the emotional strain of the past 11 years as he watched his life being destroyed, his business ruined, his house sold. Consequently, a sum of £360,000 is asked for to compensate for the loss of his business and house, and to redress the wrongdoing done by the Police against Mr. Boschat.

It should be noted that Mr. Boschat was prevented from bringing a case against the Police insurers within the time limits. This delay resulted from a combination of a very short time for time-barring under Jersey law and the difficulty of obtaining the relevant documents from the Police, plus the costs of legal action.

In these circumstances the claim would be against central contingency funds. Should insufficient funds be available for 2015, then I am requesting the Council of Ministers to make provision in the draft Medium Term Financial Plan 2016 – 2019 for this payment to be funded.

There are no manpower implications.

Effect of States of Jersey Police Actions on Turnover of Roy Boschat Vehicle Recovery Business.

Year	Turnover	
2004	£169,803	
2005	£160,377	
2006	£120,000	
2007	£87,435	
2008	£79,355	
2009	£68,525	
2010	£71,250	
2011	£73,480	
2012	£38,295	(6 months)

APPENDIX 2(2)

EXTRACTS FROM THE SUSSEX REPORT ON SOJP RECOVERY AND TOWING PRACTICE

1.2 Is the SOJP current rota totally un-biased?

Exhibit KP/2

TOWING COSTS

2002-24TH AUGUST 2006

	S Boschat £	Third party information	Parish of St Helier £	Miscellaneous £	Total £
2002	17,380		60		24,465
2003	21,655			10,802	37,253
2004	25,429			-720	27,857
2005	18,250				22,405
To August 24th 2006	6,270				18,585
	88,984		60	10,082	130,565

	Boschat £	Third party information	Parish £	£	Total £
2002	17380		60		24465
2003	21655				26451
2004	25429			-720	27857
2005	18250				22405
2006	6270				18585
	88984				119763
% of work					
2002	71.04026				
2003	81.86836				
2004	91.28406[1]				
2005	81.46503				
2006	33.73688		figs up to 24/08/06		
33.3	0.436885				

Boschat is suspended from the rota Sep-06

The affects of the rota can be seen taking hold in 2006. What is interesting is the rota is designed to allocate fairly so we could anticipate all operators receiving about 33.3%. The close association of [redacted] show that those recoveries not taken on by [redacted] re being transferred to [redacted] This is also validated by the entries on the paper

2.1

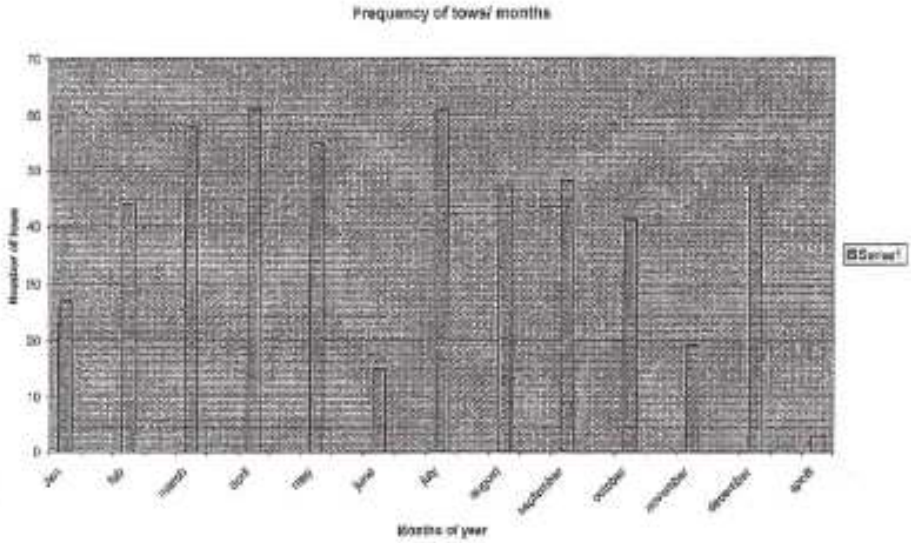
[1] Figure quoted in initial interview with Deputy Chief Constable Harper

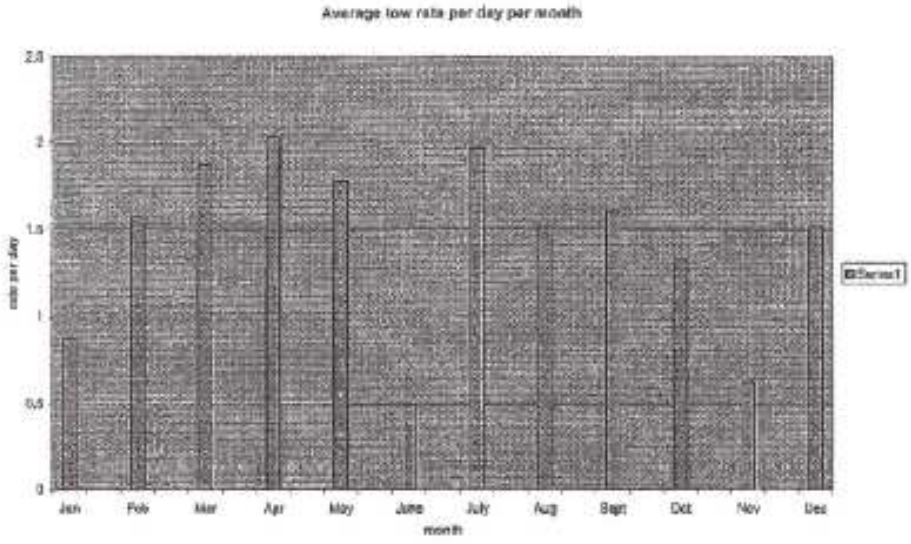
Superintendent Morrison addition analysis to SOJP Review of vehicle recoveries

tow log kept in the control room.

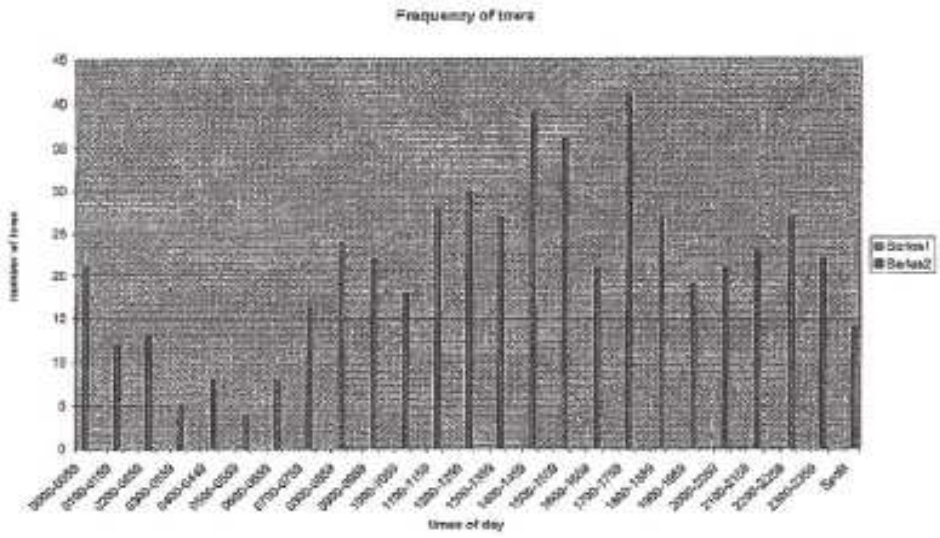
What is happening is the rota is facilitating the two contractors maintaining a strategic hold over the third. The Police need to be un-biased and where one contractor is unable to fulfil their turn then it passes in sequence to the next without favour or the contractors are made responsible for the arranging of further recovery capacity at the scene as recommended by the ACPO Standard Specification 1999.

In both cases the Police can remain commercially un biased.





Superintendent Morrison addition analysis to SOJP Review of vehicle recoveries



Superintendent Morrison addition analysis to SOJP Review of vehicle recoveries

Renouf, Colin

From: Cryoserver Admin <cryoserver.admin@cryoserver.com>
Sent: 02 September 2014 11:56
To: Renouf, Colin
Subject: Retrieved from Cryoserver: RE: SOJP tow review query[Scanned]

Forwarded from Cryoserver - this is not a forensic copy. For a forensic copy please use "Forward to your inbox" or "Forward as archive".
---------- Original Message----------
From: Paul.MORRISON@sussex.pnn.police.uk
Sent: 15 Nov 2006 13:23:01 GMT
To: "Turner, Lee"
Subject: RE: SOJP tow review query[Scanned]
Lee

We are here to help. We want to provide SOJP with practical choices and some common sense ways of doing this. The training of staff and policy is better created this way. If we can help then we will. We are all in policing together and we all want what's best for the public and the service. So if you have a query fire it off I will try to respond as quickly as I can.

Take care Paul

<The information contained in this communication is intended solely for the person and organisation to whom it is addressed. If you are not the named recipient you may not copy it, or make use of any information contained in it for any purpose, or disclose its contents to any other person. To do so may be unlawful. Messages sent or received by members of Sussex Police are not private and may be the subject of monitoring. If you have received this message in error, please contact the sender as soon as possible.>

-----Original Message-----
From: Turner, Lee [mailto:L.Turner@jersey.pnn.police.uk]
Sent: Wednesday 15 November 2006 13:18
To: Morrison Paul CM759
Subject: RE: SOJP tow review query[Scanned]

Many thanks for your prompt response and additional comments which are useful. I won't badger you with individual queiries but the one referred to jumped out as particularly significant.

Regards

Lee

Police Sergeant 197 Lee Turner
Staff Officer
States of Jersey Police
Telephone: (01534) 612627
Email: l.turner@jersey.pnn.police.uk

-----Original Message-----
From: Paul.MORRISON@sussex.pnn.police.uk [mailto:Paul.MORRISON@sussex.pnn.police.uk]
Sent: 15 November 2006 12:59
To: Turner, Lee
Subject: RE: SOJP tow review query[Scanned]

Lee

I think you have the thrust if this.

The rota is considered unlawful because where party A nominates a recovery operator and the Police say no it must be another then unless that is supported by clear rational which is proportionate and justified then who is removing the vehicle. The issue then is where does that recovery contract lie and charges? The reason of not assisting the public in their choice is considered at section 5.3.

Proportionate and justified when linked to corruption of staff is not an issue for the public. They are internal matters, the policy must be fair and proportionate to the recipient.

The term unlawful maybe considered as a tort if this is more helpful.

I think the important point is the rota is the option once a decision making process has been gone through. We must seek to allow owners the choice so they later don't dispute paying. These are tested in the UK and choice is always the best option.

The process charts show this in practice.

Does this help Paul

-----Original Message-----
From: Turner, Lee [mailto:L.Turner@jersey.pnn.police.uk]
Sent: Wednesday 15 November 2006 12:40
To: Morrison Paul CM759
Cc: Power, Graham; Harper, Lenny
Subject: SOJP tow review query

Supt Morrison

Can I please seek clarification on one specific isolated but significant comment in the report - top of page 15:

"The SOJP rota system at present is considered unlawful, the overriding principles are that owners have their vehicles recovered at their own expense and have the choice of recovery operators. Where necessary for public safety or reasons of incapacitation of the owner the police need to use their powers and at thatp oint a rota system should be activated"

The process charts within the legal section (pages 41 onwards) indicate that the rota scheme should be initiated if: (1) the owner does not nominate an operator, at general incidents (2) owner not present / incapacitated in cases of danger /o bstruction (3) owner does not arrange for recovery of unroadworthy vehicle (4) vehicle abandoned / stolen and recovered.

I read this as there being support in general terms for the rota system where for whatever reason, the driver has not nominated an operator, or there is an absence of instruction of other form, in circumstances additional to public safety / incapacitation as stated at the top of page 15.

This leads me to seek confirmation as to the aspect that is considered unlawful and Ic urrently believe you are referring to cases where drivers nominate an operator (either in person or via other implied instruction) yet are unable to call from the scene and

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arrange themselves. Consequently a request is made to FCR who then use the rota and call an operator who may differ from thatn ominated. The driver / owner may then have a liability for the services of an operator he had specifically not requested.....this is my understanding of your comment.....could you please confirm that this is the issue at the heart of the "unlawful" aspect.

Although the potential for dispute arising from such situations is appreciated, together with operational issues such as highlighted in exhibit ilog/375, I do not see how this is unlawful under Jersey law - we are arranging for a service on their behalf and in doing so adhere to the rota which was put in place as an anti-corruption measure in such circumstances. We are assisting the driver in their removal of the vehicle but subject to conditions, if they were unable to arrange for removal we would ultimately be seeking to remove anyway (selecting from the rota) to remove an obstruction / danger etc.....as stated, I do not disagree that a basis ford ispute exists but I cannot see the basis for the 'illegality' of the arrangement.

My apologies if I have missed the answer if it is already sitting within the body of the report, but it is important that we fully understand the 'unlawful' issue at the heart of this section before we can consider further in this specific respect.

Many thanks for your help

Regards

Lee

Police Sergeant 197 Lee Turner
Staff Officer
States of Jersey Police
Telephone: (01534) 612627
Email: l.turner@jersey.pnn.police.uk

APPENDIX 3

TIMELINE

Mid-2005	Complaint regarding the disproportionate amount of work being given to Roy Boschat Recovery.
11th November 2005	New Recovery Policy with a rota established.
30th November 2005	Requirement to have vehicles brought up to PAS43 standard. Boschat given 14 days. Since it is over Christmas a final date of 31st December was given. Later, during the tender process, one operator was given 6 months.
May 2006	DCO required information from all officers re alleged "Grace and favour" transactions from anyone.
June 2006	Follow-up to May 2006 e-mail asking for any further information regarding "Grace and favour" transactions from anyone.
5th September 2006	Mr. Boschat arrested. At the same time officers searched his house and removed a computer. E-mail from John Pearson to all FCR and Duty Officers taking Roy Boschat Recovery off the call-out rota (14.14). File Note to DCO confirming that Mr. Boschat had been told that he had been taken off the rota – this after he had been arrested on the charges under the Computer Misuse (Jersey) Law 1995 (14.33).
	Commissioning of Report by Sussex Police re Vehicle Recovery procedures.
6th September 2006	Letter from DCO to Mr. Boschat informing him of his removal from the rota.
12th September 2006	Letter from DCO to Connétables inferring that Roy Boschat was thoroughly dishonest and recommending that they discontinue any connection with him.
	Officers instructed that they must not call any towing company other than those on the rota. All calls to be made by FCR.
Approximately October 2006	Complaint to Police Complaints Authority regarding treatment by DCO – Devon and Cornwall to investigate – ToR agreed in October 2007.
9th November 2006	Sussex report has been received.
20th November 2006	Letter to Boschat stating that no actions would be taken following the arrest.

February 2007	SoJP commence investigation of requirements needed for a towing company.
March 2007	Complaint statement given to Devon and Cornwall Police.
28th June 2007	Trial of Sean Osmond.
1st July 2007	Notification of self-incriminating evidence to DCO.
20th August 2007	Letter to Lakeman acting for Boschat rejecting his application to be reinstated on the rota.
October 2007	Advertisement for tenders for recovery and towing (Boschat originally not allowed to tender).
25th October 2007	Further letter rejecting tender application and request for reinstatement onto the rota.
29th October 2007	Terms of Reference re Devon and Cornwall investigation into complaint agreed.
28th December 2007	Investigative interview re Third Party Trial disclosure – with Lakeman.
3rd April 2008	Boschat charged under Computer Misuse (Jersey) Law 1995.
	Complaint suspended whilst court action continues.
11th April 2008	Transcript of phone call from D.I. Malloy – *no notification that call was recorded.*
July 2008	Retirement of DCO.
28th August 2008	Final Court action – case dismissed on grounds that no warning regarding self-incrimination had been given.
1st September 2008	Reinstatement of investigation of complaint.
October 2008	Force Control Room can now call any company at the request of the car-owner.
28th July 2009	Redacted copy of report on complaint against Deputy Chief Officer available.
24th July 2014	Redacted version of Sussex Constabulary report on towing available.

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PC/30/07/BTT/VE

01534 612512

COPY

Mr R M Boschat
Plaisance
La Route De La Haule
Beaumont
St. Peter
JE3 7YD

28th July 2009

Dear Mr. Boschat

Further to your most recent correspondence I have pleasure enclosing a redacted copy of the report submitted by Devon & Cornwall Police relating to complaints that you registered against former Deputy Chief Officer L. Harper.

I take this opportunity to explain that the provision of a redacted version is entirely due to issues relating to Data Protection and that there is no attempt to hinder any proceedings that you may be considering.

Yours Sincerely

B T Taylor
Acting Deputy Chief Officer

Enc. Report submitted by Devon & Cornwall Police ✓

Form No: 51

REDACTED VERSION
DEVON AND CORNWALL CONSTABULARY

From:	Deputy Chief Constable Melville Devon and Cornwall Constabulary Middlemoor Exeter EX2 7HQ	To:	Mr D Warcup Temporary Chief Officer States of Jersey Police, Rouge Bouillon St Hellier, Jersey
Tel No:	22962		

Ref.:	Your Ref.: PC/30/07	Date: 28 July 2009

Subject: INVESTIGATING OFFICER'S REPORT
COMPLAINT AGAINST POLICE BY ROY M BOSCHAT
PLAISANCE LA ROUTE DE LA HAULE ST PETER JERSEY

On 2 January 2007 the Chief Officer of the States of Jersey Police (SOJP), Mr POWER wrote to The Deputy Chief Constable of Devon & Cornwall Constabulary, Mr A J MELVILLE inviting him to make arrangements to obtain a public complaint statement from Mr Roy Mortimer BOSCHAT. Mr POWER's letter indicated the complaint was against the then Deputy Chief Officer (DCO) of the SOJP, Mr L HARPER.

On 1 November 2007 Mr MELVILLE was appointed as the Investigating Officer (IO) in accordance with Article 7 of the Police (Complaints and Discipline) (Jersey Law 1999). Upon appointment he instructed Detective Chief Inspector BEER and Misconduct Investigator BATES QPM to assist him. Messrs MELVILLE, BEER and BATES have no operational connection with Mr HARPER.

The investigation was supervised by Mr L MAY, Chairman of the States of Jersey Police Complaints Authority (PCA), and Terms of Reference were set and agreed by Mr MAY, the Chief Officer of the SOJP and the IO.

To progress part of Mr BOSCHAT's complaint it was necessary to obtain a Transcript from the trial of an ex Police Constable of the SOJP who had been convicted of five offences of misuse of the SOJP computer system on 12 July 2007. The conviction had culminated from an investigation by the SOJP into the activities of Messrs BOSCHAT and that officer. During that investigation both were arrested. No action was taken against Mr BOSCHAT and he subsequently appeared as a defence witness for the officer at his trial. Whilst giving evidence at the trail Mr BOSCHAT incriminated himself. At no time whilst giving evidence on oath was Mr BOSCHAT given a warning by the Trial Judge or Counsel about the law and self-incrimination.

Copies of the Transcript were passed by the Court to SOJP and Devon & Cornwall Constabulary. Upon receipt of the Transcript Mr HARPER directed officers from the SOJP to investigate the potential offences disclosed by Mr BOSCHAT's self-incrimination. Due to this fact on 21 December 2007 the Jersey PCA directed Mr BOSCHAT's complaint be treated as sub-judice. On

31 March 2008 the States of Jersey Attorney General authorised the charging of Mr BOSCHAT. On 28 August 2008, following direction from the Trial Judge the prosecution offered no evidence against him, thus no longer making Mr BOSCHAT's complaint sub-judice.

On 31 August 2008 Mr HARPER retired from the SOJP.

On 8 October 2008 a complaint statement was taken from Mr BOSCHAT in which he outlines five specific complaints against Mr HARPER. No other member of the SOJP was subject of complaint by Mr BOSCHAT. As Mr HARPER had retired no Notices of Investigation have been served on him.

Set out below are the five complaints together with the outcome of proportionate enquiries undertaken to prove or disprove them.

1. Mr BOSCHAT was prevented from tendering for the SOJP Vehicle Recovery Rota.

   In the autumn of 2007 the SOJP placed an advert in the Jersey Evening Post in order that Vehicle Recovery Companies in Jersey tender so they could be included in the SOJP Vehicle Recovery Scheme. Mr BOSCHAT wrote to Chief Inspector SCULTHORP of the SOJP requesting the documentation to facilitate application for the tendering process. On 25 October 2007 he received a reply from the Chief Inspector informing him he was not allowed to apply for the tendering process. His association with Mr OSMAND was cited as the reason for the refusal. Mr BOSCHAT has supplied investigators a copy of that letter.

   Based upon the evidence obtained it is clear Mr HARPER or any other agent from the SOJP has not committed any criminal act surrounding this matter. As Mr HARPER has retired he can not be subject of any disciplinary proceedings relating to the vehicle recovery tendering process.

   Having conducted proportionate enquiries into this matter it is suggested the SOJP review their actions concerning Mr BOSCHAT's 'application' to be included in the tendering process as breaches in legislation or policy could provide vulnerability for civil action.

2. The unlawful arrest, detention and searching of Mr BOSCHAT's premises, and abuse of authority and personal vendetta of Mr BOSCHAT by Mr HARPER.

   The allegations form part of Operation Mercury. The Senior Investigating Officer for this investigation was Detective Inspector AUBERT (retired). His line manager and also the Appropriate Authority for police discipline within the SOJP was Mr HARPER.

   Following conviction and resignation from service of the officer linked to Mr. BOSCHAT, the officer made a complaint against Mr HARPER and

other members of the SOJP. The complaints were investigated by Mr MELVILLE, who upon completion of the investigation submitted a Report to the SOJP and its Police Complaints Authority. Part of that investigation covered the lawfulness, justification and proportionality of Operation Mercury. Given the intelligence picture the SOJP were justified in their actions by arresting Mr BOSCHAT and searching his premises.

With regard to the allegations of abuse of authority and personal vendetta, as Mr HARPER has retired from service and therefore cannot be subject of any disciplinary action, no further investigation will take place in respect of this matter. There is no evidence to suggest criminality in respect of this part of Mr BOSCHAT's complaint.

3. Mr HARPER communicated with the 12 Parishes telling them not to employ Mr BOSCHAT and raising concerns regarding his integrity.

   Communication has been made with representatives from some of the Parishes. Some representatives have replied stating they did receive such communication from Mr HARPER. Although the replies do differ in tone the IO is of the opinion, on the balance of probabilities, Mr HARPER did send out such communication.

   As Mr HARPER has retired from service he cannot be subject of any disciplinary action. No further investigation will take place in respect of this matter. There is no evidence to suggest criminality in respect of this part of Mr BOSCHAT's complaint.

   The SOJP may wish to review the actions of Mr HARPER in terms of how this could have restricted Mr BOSCHAT's trade and income.

4. Mr HARPER instigated an unlawful prosecution against Mr BOSCHAT following the trial of an ex Police Constable.

   During the trial the complainant gave evidence on behalf of the defendant. Upon providing evidence Mr BOSCHAT 'self-incriminated' himself by admitting under oath he had procured the officer to commit a criminal offence by requesting he carryout Computer checks on vehicles. It is a matter of record that when Mr BOSCHAT made this disclosure to the Court the Judge, nor Counsel or other Court official warned Mr BOSCHAT of the law in respect of self-incrimination.

   Upon coming into receipt of this information Mr HARPER tasked the then Head of the SOJP Professional Standards Department (PSD) to investigate matters relating to the self-incriminating disclosure to ascertain whether any criminal offences had been committed by Mr BOSCHAT. This instruction resulted in a request being made of the Court for a transcript of the evidence given by Mr BOSCHAT. A full transcript of the evidence given by Mr BOSCHAT was received by the SOJP on 22 October 2007.

Following assessment of the transcript an officer from the SOJP PSD submitted a report to the SOJP Legal Advisor making recommendation MR BOSCHAT be charged with procuring the commission of an offence under the Misuse of Computer legislation. On 20 December 2007 advice was received from raising concerns as to whether the admissions made during cross-examination was admissible, and therefore asked for Mr BOSCHAT to be interviewed under caution. The interview took place on 28 December 2007, upon completion further written representations were made seeking permission to charge. On 8 January 2008 a statement from another Police Constable was passed to the Legal Advisor. This statement provided evidence obtained during a conversation the officer had with the complainant whilst off duty, and effectively covered the fact that Mr BOSCHAT had told the truth when giving evidence for the defence at the said trial. On the 21 January 2008 direction was given that the evidence of the off duty PC be put to the complainant under caution. This was done on 8 February 2008 and further application was made by the Investigating Officer to charge.

During February 2008 the Attorney General (AG) for the States of Jersey received a telephone call from two politicians. The substance of the call was effectively 'there was going to be a grave miscarriage of justice if Mr BOSCHAT was prosecuted as a result of his self-incrimination'. Upon receiving the call the AG requested sight of the criminal file, and on 31 March 2008 he emailed Messrs O'DONNELL and HARPER authorising the charge of Mr BOSCHAT. On 3 April 2008 he was charged with the criminal offences, his first court appearance was on 30 April 2008. Normal court hearings then took place between that date and the actual hearing on 28 August 2008, where upon following an application by Mr BOSCHAT the trial Judge excluded the evidence of self incrimination. Following this direction the prosecution offered no evidence, and the case was dismissed.

As previously stated within this report it is a matter of fact that Mr HARPER retired from the SOJP on 31 August 2008, two days after the failed prosecution of the complainant and at a time when the complaint investigation became 'live'.

Based upon the facts outlined above Mr HARPER was perfectly entitled, and indeed correct to investigate matters relating to the self-incriminating disclosure to ascertain whether any criminal offences had been committed by Mr BOSCHAT. The above facts also show there is no evidence, or information available to suggest Mr HARPER had any influence in the decision to charge Mr BOSCHAT. In view of this, based upon the evidence and information available at this time it is recommended no further action be taken in respect of this aspect of Mr BOSCHAT's complaint.

5. Restraint on Mr Boschat's trade by Mr Harper directing the SOJP would not call Boschat Recovery Service for members of the public or Public

Bodies who elected to use his service at the scene of RTCs or to remove obstructions etc.

This issue was raised in the SOJP Tow Review undertaken by Surrey Police in 2006. Within the Review the author stated the following, *' The SOJP rota system at present is considered unlawful, the overriding principles are that owners have their vehicles recovered at their own expense and have the choice of recovery operators. Where necessary for public safety or reasons of incapacitation of the owner the police need to use their powers and at that point a rota system should be activated'.*

Upon receipt of this part of the complaint the SOJP were invited by Mr Melville's representative to immediately review their vehicle recovery policy. It is understood this has been done and that there is now a more relaxed approach by the SOJP contacting Boschat Recovery Service on behalf of members of the public or public bodies. As Mr Harper has retired from service and therefore cannot be subject of any disciplinary action, no further investigation will take place in respect of this matter. There is no evidence to suggest criminality in respect of this part of Mr Boschat's complaint. The SOJP may wish to review the actions of Mr Harper in terms of how this could have restricted Mr Boschat's trade and income.

Conclusion

Given the fact there is no criminality surrounding Mr Boschat's complaints and that Mr HARPER has retired there is no potential for misconduct proceedings.

A J MELVILLE
Deputy Chief Constable
Devon and Cornwall Constabulary