

**Visit to Nottingham Police
And
Crown Prosecution Service
(CPS)**

16th – 19th May 2006

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Jersey Honorary Police – Winners of The Queen's Golden Jubilee Award 2003

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Visit to Nottingham Police and Crown Prosecution Service (CPS)

16th – 19th May 2006

To view and understand the UK system of Charge, Bail and prosecution system compared to the present system in Jersey.

BACKGROUND TO VISIT AND PURPOSE.

Following the creation of the new Magistrates Court, the newly-formed Centeniers Training Group saw the need to undertake their own review of the traditional role of the Centenier in Court.

To this end, it was decided that the Centeniers Training Group would suggest to the Centeniers Co-ordinating Group and Comité des Chefs de Police that each Centenier would be interviewed with regard to their role in Court.

There were some suggestions made on the type of questions to be asked and the suggestion of having a smaller number of Centeniers for a group that would undertake all cases for the Island.

It was unfortunate that the death of Chef de Police Bob Burrow, a member of the team, died just prior to the start of the current review.

It was also suggested that seeing first hand the UK Crown Prosecution Service and Courts in action would greatly benefit the report, which at the time of conception, was for Centeniers only.

Centenier Malcolm L'Amy made contact with Superintendent John Pearson from States of Jersey Police on 23rd of January 2006 to enquire as to the possibility of visiting a UK Police station and Crown Prosecution Service. The background to the request to Superintendent Pearson was as follows, as extracted from an email dated 23rd January 2006.

"Having visited the new Court and seen the layout, I along with a couple of other Centeniers are concerned that we need to ensure that Centeniers presentations of prosecutions are as professional as possible. How possible is it for you to arrange for me to visit a UK Police station and court to view the way in which the system operates from charge, bail and court presentations? The funding would be either personal or through the HPA. If the Centeniers are to maintain their role as junior prosecutors for many years to come, it is the opinion of a few like minded colleagues that we need to change. My personal thoughts are that we need to have a team of 12 -14 well trained Centeniers who are able to undertake Court work for the Island, instead of having potentially 56 as at present. While this is a very radical move, I need a greater insight into the UK Court system.. I would appreciate if you would keep my idea confidential until such times as I have formulated a working proposal"

As a result of various emails to and from Nottingham Police and the CPS, the dates of May 16th – 19th May were arranged.

Following the Criminal Justice Report presented to the States, which was subsequently withdrawn by the Home Affairs Minister, recommendations were put forward to create a Crown Prosecution Service. This service would be headed by a Director of Public Prosecutions as suggested by a Professor Rutherford. The recommendation was not accepted due to the cost implications it was agreed that the current situation should remain.

Following the report being made public, and the decision of the Scrutiny Panel to look at the traditional role of the Centenier in the criminal justice process, the Centeniers Training Group decided to push forward with their own research.

Two reports are currently in the process of preparation from the Centeniers. This report covers the outcome of meetings during the visit to Nottingham and the personal opinions of Centenier Malcolm L'Amy, Chef de Police in St. Peter. These reports are to be submitted to the Scrutiny Panel.

09.30 Meeting with the Chief Constable of Nottingham at Sherwood Lodge Police Station.

On arrival I was greeted by the Chief Constable of Nottinghamshire Police Force, Mr Steven Green. The meeting lasted an hour and he was very interested to learn of the 500 year-old system that operates in Jersey; he was undoubtedly impressed with the system that Jersey maintains. One of the Chief Constables' roles with the Police in the past, was as a prosecutor in court. Prior to 1986 a Police Inspector would present cases in court, in a similar way to the role of the Centenier. From my conversation with the Chief, it became apparent that the formation of the Crown Prosecution Service has not improved the service to the public, but has created difficulties for the Police Force.

During the hour conversation it was suggested that the Island or the Centeniers should conduct a survey with the general public, to seek their views on the formation of a Crown Prosecution Service. This would give all involved in the review the public perspective on the matter before radical changes were made to a system that is at present working well with a very high rate of successful prosecutions, achieved with little cost to the tax payer.

He understood the difficulties of insufficient evidence-gathering when cases are presented in court. He too had been on the receiving-end of a Magistrates' wrath when presenting cases which had required more work to be undertaken prior to charge.

Restorative Justice was also discussed as a new concept in the UK, but it appears that Jersey has led the way in this field with the Parish Hall Enquiry system for juveniles, for many years. A brief description of the PHE system was given with an overview of how a Centenier will deal with minor cases that would appear before a UK Magistrates Court. In the UK, the fixed penalty system is in place to deal with some of the work of a Centenier, due to the volume of cases that are handled in a month. An example of this would be the fixed penalty for speeding offences.

The meeting with the Chief lasted just over an hour and was extremely useful in seeking views on the CPS system in the UK. The impression I obtained during our

conversation was that if the Jersey Model is working, why should it need changing to a system that is not highly thought of by senior UK Police Officers.

An offer was made to me by Chief Constable Steve Green, that if he or Nottingham Police Force can be of any assistance to the Centeniers in the future, then he would be willing to assist in any way possible.

My impression is that our very unique system, when explained, becomes of interest in that we as an Island can ask members of the public to take on a high profiled role in the criminal justice system of Jersey, without being paid.

Having spoken to the Chief and listened to examples of how the CPS system fails, I feel that Jersey has a lot to be proud of. Accountability is the key to all that is in the public eye and we must provide evidence that Centeniers are accountable and that the public have the confidence to continue with this 500 year old system. If we do not have the confidence of both our parishes and the general public we come in contact with, then the system must be changed. If Centeniers can prove that the way they deal with the general public both at Parish Hall and Court level is as professional as possible then the current system of Criminal Justice has a lasting place in the Jersey Society.

I feel that the suggestion by the Chief Constable of seeking the views of Islanders holds great merit before entering down a road of no return for a system that, by all accounts is serving the Island well.

11.45 Meeting with Inspector Andy Rouke at Bridewell Police Station.

I was given a tour of the largest Custody Suite in northern Europe, with up to 60 cells available, excluding holding cells. As with the Jersey system, the accused are brought into the custody area and searched. There are between 5 and 6 Custody Sergeants and civilian workers booking in the accused. There are glass cells where the custody staff can monitor vulnerable prisoners if P.C.'s are unavailable to keep cell watch. The booking in process can take from fifteen minutes from arrival, up to one and a half hours depending on how busy the custody suite is. During my time in the custody suite, there was a constant stream of accused being brought in.

The tour included the interview rooms and the facilities where the lawyer will attend and speak with the accused. The building has various levels with cells on each level, including a separate custody suite for terrorists. A dedicated Chapel is available to meet the requirements of every major religion.

The Custody Sergeant or Inspector is able to charge offenders with simple offences, and decide if an accused will be bailed or remanded in custody until the next court sitting. If there is any dispute in the evidence against an accused or they have given a no comment interview, the arresting officer must then wait to see a CPS lawyer, who will review the evidence and make the decision on whether to proceed with the case or release the accused without charge. It became clear that this system caused long delays, and arresting officers could wait up to five hours before seeing a CPS lawyer. While I was there, I spoke with two arresting officers who commented on the time wasted waiting to see the CPS lawyer. I did not meet the CPS lawyers. This was causing frustration for both the arresting officers and the Inspector. All felt that this type of system was unacceptable. It was commented upon that arresting officers should be back out on the street as quickly as possible and not have to wait up to 5 hours for an answer from the CPS.

Following the three hour tour of Bridewell, I was taken to observe the custody process with a Custody Sergeant. I observed two accused being processed during my two hours. The first person, a female had telephoned the Police to report an assault on her by her neighbour. When attending at the home address, the officers received information that she already had an arrest warrant for failing to attend court.

It took around an hour for her to be processed as there were medical problems that a contracted nurse was called in to deal with. It was interesting to note that the Custody Sergeant did not require viewing of the pocket note books of the arresting officers and did not date stamp and sign note books confirming the evidence as noted. As the Court had ordered the arrest, with no bail option, the female was detained in custody and was presented before the court the following morning.

The second person was a 20 year old male, who had been arrested for possession of a class A drug, (cocaine), along with going equipped and carrying an offensive weapon. The male had been waiting since 15.15 and was dealt with by 16.15. He had indicated that he was guilty, but then during the custody process used his right to seek legal advice. Again I asked if the Custody Sergeant needed to see the pocket notebook. Again the pocket notebook was not utilised in providing evidence to the Custody Sergeant. The arresting officer stated that following the arrest, and one assumes the caution, the accused made comments that should have been recorded and then should have been asked to sign the pocket notebook. The comments related to guilt of the possession charge. Following the custody process, doubt was then raised by the accused as to his knowledge of the class A drug in his possession. If the unsolicited comment made to the arresting officer had been recorded and signed by the accused, this would have given a more substantive case for the prosecution.

At my departure, there were at least 15 people waiting to be processed by the Custody Sergeants. As the team was in their busy phase, I felt that my presence may unnecessarily delay the processing of further accused.

It was a very informative five hours spent with the Custody Inspector and Sergeants. During my time at Bridewell, no officer I spoke with had any praise for the CPS or the way the system operates. These were officers with 10 plus years experience. Having explained the process that Jersey uses, it does take some understanding that a elected person with no legal qualifications could be called to charge and decide if there was sufficient evidence to charge. It was felt that our system had it merits and it was suggested that going down the road of a CPS system for Jersey would have the same detrimental effect as it has had in the UK.

Having seen the delays caused by arresting officers waiting long periods of time for CPS staff to deal with their requests, I can fully appreciate the frustrations.

Wednesday 17th May 2006 Visit to King Edwards Court Nottingham

I met with Ros Evans from the Police civilian staff who heads pre – court work for the CPS. The building houses both CPS and Police staff in the preparation of paperwork for court. This includes all cases with not guilty pleas. It became clear that the lawyers, who defend the accused, normally advise their clients to plead not guilty and give 'no comment' interviews, even when the evidence is clear that they are guilty. The work carried out in this department is similar to CJU for the States of Jersey Police, the difference being that Police Officers have no access to the department and have to enter a different level of security to talk with the case preparers. This causes frustration on both parts, when additional statements have been requested;

the Officers in Charge (OIC) have to walk around from the Central Police Station to deliver the extra paperwork.

Far more work goes into case preparation than we currently experience in Jersey. I saw a case file of a drunk in charge (DIC) which was going to trial. The accused had blown 93µgs (micrograms) of alcohol in 100 millilitres of breath. (UK and Jersey legal limit 35µgs.) The case was interesting as there were various witness statements taken and the evidence from the Lion Intoxilizer was also available. Within the bundle was a Short Descriptive Note (SDN) of the interview, which basically stated that the accused had given a no comment interview to all questions, as advised by the lawyer.

This type of case for Jersey would be straightforward in that the accused had provided a reading well in excess of the legal limit. The system which operates in the UK appears cumbersome and time-consuming. At each stage of the paperwork chain a CPS lawyer will review the file and ask for additional material. Defence lawyers do not receive a fee until the second appearance in court. Therefore their advice to their client is to provide a no comment interview, and then plead not guilty on the first appearance which will then bring them onto the second appearance giving the lawyer the ability to receive costs even if they lose the case. From talking to the pre-court workers, this delayed justice gives additional costs to the whole service and then results in a guilty plea just before trial. This may take several months to achieve in which time the accused drink driver is still able to drive a motor vehicle, without any interim disqualification.

I then was introduced to a further clerk who then prepared further reports prior to the court sitting. Again working alongside CPS lawyers has caused friction between the two parties. As a personal opinion, there is far more friction between the Police case preparation staff and the CPS lawyers than there has ever been between States of Jersey Police and the Centeniers prosecuting cases in court. While I appreciate that the volume of casework is far greater in a county the size of Nottingham, the speed at which cases take to process through court and obtain a guilty plea is unacceptable. If the Centeniers were providing the service level I have seen so far, we would be heavily criticized for failing the AG and the Island's Justice System. I had not met anyone within the Police service who is happy with the way the CPS system works or the way in which the lawyers have an air of superiority over the Police. Having explained our system to the various departments, it was felt that Jersey had a lot to be proud of and that clearly the system of the Centenier worked.

I was then introduced to the Witness Warning and Victim Support Team. This was a most interesting insight of how a team of workers keep in contact and ensure that witnesses attend court and provide services, e.g. child care, taxis and if required air flights so that attendance is assured. (Many cases are lost due to the witnesses for the Prosecution failing to attend and the case then is dropped due to lack of evidence.) There is also in place a witness protection system and witnesses are kept up-dated on developments of the case. It is normally the duty of the Parish to warn witnesses to attend court for both the prosecution and defence. Too many cases are lost in the UK due to witnesses' unavailability so the team has been set-up to deal with the problems, which includes intimidation.

The department has produced leaflets and a DVD, which I was given a copy of. These all explain the court process and what will happen when witnesses arrive in court. The victim is also up-dated and logged as to how the case is progressing. It does at times appear that 'we' the Centenier, and the court system forget the victims in the process of obtaining a conviction. If charges are amended, then the victim is

kept informed of those changes. This to date, has impressed me the most, as I feel that on many occasions the victim is forgotten in the Jersey criminal justice process, and I speak from personal experience of the system. I discussed the assault case against me, where a female who I had arrested for being drunk and disorderly had kicked me in the back of the head while I was driving the Police car. A similar incident happened recently at Bridewell, where an arrested person, while still in the Police car attacked the Police driver. This caused him to crash the police vehicle into the Bridewell Police Station killing the driver and injuring the other police officer.

I am most grateful to Ben for the time and interest he showed. The initiatives introduced by that section would be worth considering to be introduced in Jersey, (in a scaled down format).

I then visited the Mansfield Police Station to see the post court process. Sue Timmins explained that again conflict existed between the CPS workers and the Police support staff. Her team's job is to input the results from the court into the PNC system. From final verdict at the court, of which the Court lists are sent electronically and printed, it is currently taking seven weeks to input the results. Due to budget restraints, overtime is now banned and targets are therefore unachievable. It is interesting to note that in every department I have visited that again the conflict between the Police staff and the CPS is predominant in all conversations.

I was introduced to one of the CPS lawyers while at the Mansfield Station. I discussed the role of the Centenier in the Court process and explained that it has been recommended that a Crown Prosecution Service be set up. This was viewed with great interest as the UK CPS have introduced DCW's (Dedicated Case Workers) who deal with presenting simple cases in court. It was viewed as odd that Jersey should be considering removing a system that is working, replacing it with CPS style lawyers and then when the case work becomes too great will go down the route of introducing DCW's, when the Island already has this system in place. (See DCW criteria).

I also spoke with a CPS case worker, who is not a lawyer, but had a degree in law, and was chasing the Police for an analyst report on amphetamine sulphate. The case had been charged months ago, and was due to appear in court in 10 days time, but the CPS lawyer had not received the report stating that the powder found on the accused was in fact an illegal drug. This is something that the Centenier does as a matter of course when dealing with a drug case, in insisting that the reports are ready, or at least on the first appearance a NIK Test (a field test for the five main illegal drugs) has been carried out and it is not just the opinion of the arresting officer that the accused was in possession of an illegal substance. The CPS case worker complained at the inefficiencies of the Police in providing evidence to get sound convictions. It was also thought that as this case of Amphetamine Sulphate did not have the expert statement then the CPS would be offering no evidence at the trial. I would hope that this situation would never happen with a Centenier, and that the Centenier would be ensuring that all the paperwork was available at second appearance and that a NIK test had been undertaken prior to charge.

Thursday 18th May meet with CPS.

Met with Kate Carty Chief Prosecutor and David Marley, Area Communications Manager. At this meeting I described the system that currently exists in Jersey with the Centeniers being the main form of prosecution and how we are elected to the post. I also described the policing powers we had, and how we are called in to charge as an "independent". We review the evidence and will then decide to charge

or return the file to the OIC for further information. This meeting lasted about an hour and during that time both Kate and David found the system which we have most fascinating.

They had called in the local paper The Nottingham Evening Post for a photo call and an interview with regard to my visit to Nottingham and how this had come about and what both parties would get out of the visit. The interview lasted an hour and the local reporter again was very interested in the system of Centeniers being prosecutors and police officers, and how the system had developed over the centuries. The Nottingham Evening Post are very supportive towards both the CPS and the Police in running news stories of high profile cases to give public confidence as to how both services are dealing with the high volume of crime in the area.

Following the interview, David Marley and I walked to the Bridewell Custody Suite to the area where the CPS lawyers advise Police Officers on cases and what further evidence is required before a charge or charges could be put to an accused. The CPS lawyer I spoke with was with a Police Officer at the time who was seeking to charge a male with what we would call Grave and Criminal Assault. The accused male had allegedly become drunk and smashed a glass or bottle in his flat and used that broken bottle as a weapon causing severe lacerations to the face. The female Injured Person (IP) had called the Police who had attended and the male was subsequently arrested and taken to Bridewell. He would have followed the standard process of being booked into custody and then subsequently interviewed and would also have spoken with a lawyer. He claimed that his long term female partner had attacked him first and he had sustained a deep cut to his right hand. The police stated that he had self-harmed to throw doubt on his guilt. Following interview (and I believe he gave the standard 'no comment' to any leading questions) he was released on 'Police Bail' which also imposed on him a condition to stay away from his long term partner. This was done so that further investigations could be carried out by the Police. After I believe three weeks, the OIC was with the CPS lawyer to see if there was sufficient evidence to charge or whether there needed to be further statements and medical evidence. The case was further complicated by the accused producing a letter from the IP stating that she wished to retract her original statement. It should be interesting to note that if this case had happened in Jersey, following the arrest of the accused, he would not have been released and then would have been charged with Grave and Criminal assault by a Centenier, who would have remanded him in custody until the next court sitting. Once in court a further remand in custody would have been asked for while further medical evidence and statements were taken. A two week remand, in custody, would have been sought. I could not understand that in a case like this the accused would have been released on some form of bail.

I explained how we would have dealt with the problem and how, if it had been a Centenier, the accused would have been remanded in custody. Again during my time in the CPS room near the custody suite, PCs were lining up to talk through cases with a CPS Lawyer which was taking a minimum of an hour before one was free, or if it was to close too lunch then the PC would have to wait until after the lawyer had finished lunch before their case was reviewed. Both the Custody Sergeant and the Centenier appear to perform the role of the CPS lawyer in reviewing the evidence, with the Centenier having the final say if there will be a charge or not. So much time is wasted in the UK system, and if advice is required after 5pm then the OIC has to ring an 0845 number to speak to a CPS lawyer somewhere else in the country. The evidence is then faxed to the CPS lawyer who could be anywhere, and then the OIC would have to wait for a reply, which could take several hours depending on the complexity of the case.

Following my visit to CPS I was taken to lunch by Janine Smith, District Crown Prosecutor, Bridewell Team. We were also joined by the HR Manager for the CPS team in the Nottingham area.

Following lunch, we returned to the Magistrates court to view the afternoon sitting with a Dedicated Case Worker, (DCW). The DCW position has only recently been created by the CPS. They are there to relieve lawyers of less serious cases where either there is already a guilty plea, and they have to present evidence, or where the case has been remanded for a plea to be given and a new date given for either a trial or to hear the evidence if there is any dispute, by a CPS lawyer. The DCW can oppose bail but they do little compared with the role of the Centenier.

The court sitting was in court no. 8, but there were up to 14 courts in the building, with a layout similar to our new court. The non-stipendiary magistrates were sitting. The Greffier's position is taken by a legal advisor; no court record is taken as there is no recording equipment or stenographer.

The first case was called and the person had failed to attend, even though they were on court bail. Defence asked for an adjournment until 25th of July for a trial and also asked for further statements and disclosure. It was agreed that if the defendant was not in court for the trial, the trial would take place and he would be found guilty in his absence.

The instructions as to the court running order and how the cases will proceed is organised by the Court Usher, the DCW has no say in the running order as a time is given for each case. So accused would be warned for 2.15, 2.30, 2.45 etc.

Cases 2 and 3 had also failed to attend and dates had been set for Pre-Trial Reviews (PTR). With the third case who had failed to attend, the prosecution offered no evidence on one of the charges. Defence made no application for costs, and a date was set for a trial, by the defence lawyer, for a future date.

The fourth case was driving whilst disqualified and driving without insurance. Not Guilty pleas were entered on both counts. A PTR was arranged and Defence had asked for CCTV evidence from the court building as his client had said that he was in the court on the day he was supposed to have been stopped by the Police, and the officer, the only witness, must have mistaken his client for someone else. His record was given to the court and this highlighted that the accused had been charged on numerous occasions with driving whilst disqualified and driving without insurance and there had been previous convictions to this end. He was also facing trial on similar charges. He was given unconditional bail to attend at a date given by the Clerk of the Court who had obtained a date from another department, by telephone, during the sitting.

Case five was 3 charges of sexual assault on an under 16 year old girl and the defendant gave a 'no plea' to all three charges. The case was then remanded to be heard in the Crown Court. Unconditional bail was granted and jurisdiction was declined.

Case six was three counts of using threatening behaviour and one of using racial remarks. The defendant had failed to attend so it was decided by the Magistrates that the case would be heard and proved in absence. The DCW read out the facts of the matter and the Magistrates retired to consider sentencing. A cost by the prosecution

was asked for at £43.00. On returning, after 20 minutes, the Magistrates gave the following judgement; on the first two charges £250.00 per charge on count 3 & 4 £375.00 plus the £43.00 costs to the prosecution plus a £200.00 compensation order to the IP totalling £1493.00 to be paid in 14 days.

Case 7 was damage to an ambulance window. DCW read facts; accused was never asked if he disputed any of the facts given. Again a further adjournment of 15 minutes to consider the sentence took place. Conditional discharge was given with a compensation order of £200.00 to the Ambulance Service.

Case 8 was a sad case which would never have been sent to court in Jersey, but would, if a file had been prepared, been dealt with by a Centenier at a Parish Hall Enquire (PHE). The case was racial comments and offensive language at a Police Officer. The accused had been arrested for common assault, but that case was dropped, but during the detention process had become aggressive towards a female Police Officer and used verbal racial comments. The DCW presented the case, offered no evidence on the common assault charge but continued with the charges as previously mentioned. It transpired that the accused was an Iraqi national, and had been detained in Iraq during the war; had seen his father executed in front of him and had been beaten whilst in prison. The Magistrates gave the accused a bind over order of £400.00 for 12 months. The effect of this means that if he offends again, for what ever reason in the next 12 months, he will have to pay the £400.00.

Case 9 was a standard hit and run and driving without due care and attention. The plea was guilty. When the charge was read out by the legal advisor, or Clerk of the Court, no articles of law or reference to any given law was read. This was a guilty plea and a simple case - the DCW read the evidence. The defence made reference to the adding of penalty points to the driving licence. The outcome of the case was that the licence was endorsed with 6 penalty points and a £150.00 fine, £35 to cover prosecution costs, payable at £30.00 per month.

Case 10 was to be either a common assault or grave and criminal assault. Part of the evidence was disputed by defence. A Newton Hearing was ordered and a date was given by the legal advisor. A PTR was also arranged and the Newton Hearing would take place without the defendant being present.

Case 11 was behaving in an indecent manner in a police station. The DCW suggested a bind over before the facts were read out. Defence asked for the charge to be amended to breach of the peace. Bind over order of £50.00 was imposed.

Case 12 was driving whilst disqualified and no insurance. A not guilty plea was entered and a trial date was set.

The DCW did very little work compared to a Centenier and some of the matters could have been dealt with either at Parish Hall level or by a written caution at the Police Station, saving time and court costs.

Following the end of court I was able to speak with officers from the CPS and asked about the DCW training course. The courses that are available for DCW's last a week and take place in York. It may be possible that the Centeniers Training Group could adapt the courses available to DCW's and that a professional trainer from the UK could be brought to the Island to run week long courses for the Centeniers. Telephone numbers were exchanged and this may be a viable possibility for the future. There would obviously be a cost implication and funding may become an

issue, but as Centeniers offer their services free of charge they should at least be offered the best training available.

If a professional course was arranged for each Centenier to present cases in court and courses that the CPS run for all DCW's could be adapted to the current Jersey system, I feel that this would achieve a lot in answering the critics of the current system in Jersey. Effectively an audit trail of training could be maintained and this would demonstrate how seriously the Centeniers take their role. From my observations during the afternoon's sitting in court, the DCW does about an eighth of the court work a Centenier will undertake, especially in St. Helier. If one looks at the case load a St. Helier Centenier has on a Monday morning and how professionally those Centeniers conduct themselves; arranging the court order; speaking with the advocates and legal advisors and ensuring that all the evidence is available to all parties on first presentation, then value for money is not the issue here. Under the UK system, the work involved in just one case, (which the Centenier would deal with entirely) would be - a PC arresting someone, speaking to a legal advisor about the strengths of the case. The offender would then be bailed to appear at some future date at the police station when further evidence has been gathered. This may mean that an offender, who would normally be locked up in the Jersey system, in the UK model would be set free on bail to continue to re-offend. A case worker would be designated to prepare a file on the accused. This would then be passed to another Pre-Court case worker who will ensure that all the statements requested by the original CPS lawyer had been given. The file would then go to another CPS Lawyer, based at the CPS Office, who would again review the evidence and make recommendations to the appropriates of the charge or charges and then pass the file back to the CPS Lawyer at the Station for charging. The offender would then be charged and given a date to appear in court where another lawyer or DCW would pick up the file, depending on the complexity of the case, and then present in court, sometimes without all the evidence being disclosed to defence. Delays upon delays affect the UK model, and there are occasions, due to lack of evidence being provided, that cases on the third or fourth appearance, are dropped. For example a case was dropped and no evidence was offered. This was because a forensic statement was not available after multiple appearances over many months. This has not been swift justice; this type of justice is slow and inefficient in comparison to our model and is very expensive to operate.

The UK court system is also so different to the Jersey model. The Greffier is replaced by a legal advisor who reads the charge, a court usher who arranges the court listing and makes sure that the defendant is in court at the given time by calling from outside the courtroom. Most defendants do not sit in the public area. The legal advisor will read out the charge, charge sheets do not refer to the articles of law. A DCW can make very minor alterations to a charge sheet once presented but if the charge is being dramatically changed the case will be adjourned until legal assistance is sought from a CPS lawyer.

The term reserved plea is not used in the UK model, and is replaced by the term, no plea. There are multiple lawyers in court as per the Jersey model except they do attend court early to speak with their clients, and to discuss case management plans with the prosecution.

It should be clearly understood that the workload of a Centenier is far greater and the responsibilities held by the Centenier are far higher than the CPS lawyers. During most of the hearings I attended, neither the CPS lawyers nor the DCWs did much in the way of presenting facts or leading the court. They both appeared to take minor roles in the process.

The Magistrates courts in Nottingham follow a similar design to the new Magistrates court in Jersey. Glass panels and "tip up" seating was common in the various courts. All the courts were bright and airy and gave, like our new Magistrates court, a feeling of formality in their layout. Prisoners are brought back and forth from the Police Station and Prison by a contract company. Delays occur from being called by the legal advisor to appearing in court, far greater than with our court layout, as far greater distances are involved.

Friday 19th May at Nottingham Magistrates Court with Kate Chatterton.

This was to observe the Remand Court and its procedures. A district Magistrate sits for these hearings, and the list of cases were of a serious nature.

Case 1 was a multiple sexual assaults and multiple drug case. The accused had been arrested the day before and had been held in custody due to the allegations of such a serious nature. Some of the offences were indictable only to the Crown Court where others had the jurisdiction of the Magistrates Court. Unlike the Jersey model, the UK model can deal with some of the charges in a multiple charge case at the first appearance if a guilty plea is given. This is unlike our system where if there are minor offences then they will all be dealt with in the higher court.

Bail was refused, and even though the defence lawyer was not making a bail application the Magistrate required details of why bail should not be granted, from the prosecution lawyer. This one case took an hour to hear, it took just on 30 minutes for the accused to be brought from the cells to the dock. Following that case the court had a small recess as no further cases were ready to be heard.

Case 2 was death by careless or dangerous driving, no insurance and DIC. Prosecution opposed bail and stated reasons, to which defence gave a very creative argument for bail to be granted, but this was refused.

Case 3 was for no driving licence, the accused failed to attend and the case had been proved in absence on a previous occasion. Defence asked for a 28 day adjournment so DVLA could be contacted over the licence. There were also outstanding parking offences, but the prosecution did not have the case file involving these other offences. These files would be sought by the next appearance.

Case 4 was heard at 11.35 and was a straight forward Drunk and Disorderly (D&D), and a fine of £50 or one day was imposed.

Case 5 was very interesting as the accused was charged with speeding, and the evidence was a road-side camera. There was a not guilty plea as there was no evidence that the accused was driving the vehicle in question at the date and time on the photo evidence. (The photo could not show evidence of who the driver was.) It was defence who called the case and to date the CPS had done little to nothing in supplying required evidence. The Magistrate criticised the officers involved in this case. It appeared to me that so much time had been wasted on this case, as it had started in April 2005.

Case 6 was two charges of driving whilst disqualified and two charges of driving without insurance. All charges were given a not guilty plea. A Pre Trial Review (PTR) date was given, prosecution opposed bail on the grounds of further offences whilst on bail, in connection with previous convictions. The accused was remanded in custody due to committing offences whilst on bail.

The final case of the morning was breaches in community service orders. The Magistrate read the breach, no evidence of the breaches were readout in court. The breach report was prepared by, and submitted by Probation. Probation also supplied the Police National Computer (PNC) record to the Magistrate. Due to the various breaches, the Magistrate ordered a total of 98 days imprisonment of which half would be served by the accused.

Following the end of the court sitting the Magistrate asked if I would like to have a chat in chambers. He was very interested to hear of the Jersey model of criminal justice and thought the system to be of interest.

It appears that a general lack of funding for the CPS gives rise to long delays in the prosecution of various cases. It suffers badly from cases being pushed from pillar to post and this causes frustration and lost cases due to lack of evidence.

It is standard for the defence to advise clients to plead not guilty and to let the prosecution prove their case beyond reasonable doubt. They also advise their clients to make no comment interviews. The defence receive monies for legal aid cases regardless of outcome.

(I do like the idea of prosecution asking for costs as this income could fund training for Centeniers in their court work)

The afternoon was concluded by time spent with Malcolm Bills a DCW. This was to observe him prepare the case papers for the Monday morning sitting. He was previously a Police Officer and therefore had a greater understanding of evidence than most. He explained to me that when he had been a Police Officer, they were taught to gather the evidence, and whilst their statements needed the detail of how long they had been a Police Officer, the dates times and facts of the matter, to prove a case, were the most important.

It was explained to me that DCWs were introduced around 6 years ago to assist with the workload of the lawyers. He continued by explaining that DCWs are given limited opportunity to run cases themselves but have to refer back to a CPS lawyer for more complicated cases in law, all be it trivial matters that some Centeniers would deal with as a matter of course.

DCWs have had an extension to their powers since the conception of the post but are still quite limited. It has been suggested that following further training, DCWs may have their powers extended so as to cope with the ever increasing work load.

In the office Malcolm was working in, he was checking the files to ensure that all the correct paperwork was ready for the Monday morning. During the conversation I was also introduced to one of the CPS lawyers on the team. He explained his role and we also discussed the role of the Centenier in Jersey.

During the four days it was a very useful exercise of understanding the CPS Model of the UK. Whilst the crime rate and number of cases are far greater in Nottingham than in Jersey, it has been a great opportunity to understand more about criminal justice and the wider issues that hopefully Jersey will never encounter.

Without doubt the time has been well used and a note must be made of how the two departments, Nottingham Police Force and Nottingham Crown Prosecution Service have put together a most interesting timetable for me.

Everyone was so helpful throughout the visit and they were interested to learn of how another jurisdiction within the British Isles works. It goes without saying that the Jersey model would not work in the UK, as very few people have the spirit and sense of community that Jersey folks have in giving of their time to their Parish or Island. I do feel however that the efficiencies within the Jersey model could assist in speeding prosecutions through the courts in the UK, but will comment on this in the conclusion.

BRIEF HISTORY OF THE CENTENIER PRESENTING CASES IN THE MAGISTRATES COURT.

The model of criminal justice in Jersey differs greatly from the current UK model and a brief explanation is required on the Jersey system.

The Centenier sits at the front of the new Magistrates Court to present cases. The Centenier arranges the running order of cases. The presenting Centenier will read the charges to the Court. If a guilty plea is given then the Centenier will read the facts. The Centenier will also present persons who have breached probation orders, and will call Viscount Arrest orders.

A Centenier can ask for certain bail conditions to be set for a person to be remanded in custody. Centeniers can oppose bail and ask the Magistrate to decline jurisdiction in serious cases on first presentation. The Centenier cannot cross-examine defendants in Court.

The Legal Advisor sits behind the Centenier, serious crimes such as murder, sexual assaults and illegal drugs cases will be handled by a Legal Advisor. While Legal Advisors can present cases and make objections to bail, they cannot read the charge sheet. The Legal Advisor is also responsible for collating files for the Royal Court.

The position of the Centenier in the Court system dates back to 1854, with the creation of the Police Court. Prior to this date, all breaches of the law were brought to the notice of the Crown Officers, and it was they who decided whether to prosecute or not.

In 1854, with the creation of the Police Court, the decision to prosecute became the prerogative of either the Connétable or the Centenier. This system has served the Island since that date.

In 1853, a law regulating the Police Court was introduced. At the time the Court was not empowered to deal with committal proceedings as the assize system was still in place.

In 1864, a law replacing the assize system was introduced. The new law provided for committal proceedings to take place before a '*Juge d'Instruction*'. The law further provided that this function was to be carried out by a Magistrate.

In April 1997 the Police Court became known as the Magistrate's Court, which was sited in Seale Street, part of the Town Hall building. The Magistrate sits in two official

capacities, the first as a judge of a Court of summary jurisdiction and secondly as an examining Magistrate.

In February 2006 the new Magistrate's Court was opened and the old Seale Street Court was decommissioned.

When the 1853 Law was created the jurisdiction of the Magistrate was a maximum fine of five pounds sterling or one week's imprisonment. Currently the jurisdiction is a maximum of £5000 fine or 1 year's imprisonment or both.

In 1853 it was the Connétable or the Centenier who presented the case before the Magistrate in accordance with the Centeniers Oath, still current today, whereby he or she swears to: ***oppose and arrest all rogues, mutineers, thieves, murderers and all other persons who interrupt the public peace and that the Centenier will inform the Connétable of these so that they can be presented before the Court to be punished according to their misdemeanour.***

The law (LOI 1864 Reglant la Procedure Criminelle) under Article 14 states that: ***'All persons arrested pending trial for a crime or a misdemeanour will be presented, with the least possible delay, before the Court, by the Connétable of the Parish in which the crime is purported to have been committed, with a report giving the circumstances surrounding the arrest.'***

In the Police Force (Jersey) Law 1974 Article 3.2 the power of the Connétable or Centenier to charge and grant bail is given as follows:-

3 Power of police officer

- (1) Where a police officer with reasonable cause suspects that any person has committed, is committing or is about to commit, an offence the police officer may arrest that person.*
- (2) There shall be expressly reserved to a Connétable and a Centenier the powers of—*
 - (a) the customary right of search;*
 - (b) the granting of bail to any person;*
 - (c) the formal charging of any person with an offence, without prejudice to the customary powers of the Attorney General in the prosecution of offences.*

In 1999 Legal Advisors were appointed to assist the Centeniers in the more complicated and serious cases which required points of law to be clarified. It was thought at the time that the traditional role of the Centenier in Court would be lost. The Centeniers continue to present cases in the Magistrates Court.

When an accused is to be indicted to the Royal Court, following a serious offence, the Centenier will prepare a report, to be signed by the Connétable, detailing the facts of the case and this is signed by the Magistrate on indictment.

THE CENTENIERS POWERS TO CHARGE AND BAIL

Prior to presentation in the Magistrates Court, the Centenier will have either charged the accused at Police Headquarters or at a Parish Hall Enquiry. In the case of a Customs offence, a Centenier may be called to attend at Elizabeth Custody Suite or the States of Jersey Airport Custody Suite. Most cases involving Customs are normally dealt with either by a St. Helier or St. Peters' Centenier.

A charging Centenier will read through the facts of the case, including statements from the Officers involved. Evidence may be presented to the Centenier by the Officers involved in the case. The Centenier will have sight of the previous convictions of the accused which will assist, if the matter is of a serious nature, in deciding whether to grant bail following charge. The Centenier, after studying the evidence, both written and verbal, may decide to seek advice from a Legal Advisor. The Centenier may also ask for additional information from the Officers involved with the case.

If the submissions pass the evidential test, as laid down in the Attorney General's Guidelines to Centeniers, and the Centenier is happy that there is a *prima facie* case to answer, the Centenier will then consider the public interest test before formally charging any accused.

If the Centenier feels that, at present, there is insufficient evidence to formally charge an accused, the Centenier may instruct the Officers to obtain further statements and or physical evidence, such as photographs or field tests in the case of illegal substances.

The Centeniers also makes regular contact with the Legal Advisors to request assistance. This may involve phone calls late at night from the Centenier to one of the Legal Advisors who are happy, regardless of the time, to answer any question that the Centenier may have. At times, following such advice, a Centenier will not charge an accused person due to lack of evidence provided by the arresting Officers. The more active Parishes can have daily contact with a Legal Advisor, prior to, or following charge of an accused.

Once satisfied that sufficient evidence has been provided by the Officers in a case, the Centenier will ensure that the charge or charges to be put to the accused are correct. The Centenier will then consider if bail should be granted. Each Centenier carries with them a Bail receipt book and envelopes to place any surety, if bail is to be granted. If the charge is of such a serious nature, or if the record indicates that the accused has failed to attend court in the past or would be likely to re-offend or abscond prior to a court appearance, the Centenier will refuse bail. The Centenier will then have the accused remanded in custody until the first available court date. If this involves a weekend or a Bank Holiday weekend, the authorisation of a Jurat will be required. The Jurat's involvement comes from the LOI (1864) Reglant la Procedure Criminelle, article 13 which states:- ***no person arrested by a police officer pending trial for a crime or misdemeanour may be held in custody pending trial, except with an authorization signed by the "Chef Magistrat" (Bailliff) or one of the "Jures-Justicier" (Jurats): the officer receiving this authorization must present it to the goaler.***

The Code of Practice for the Centenier or Connétable to charge and bail is in compliance with the Police Procedures and Criminal Evidence (Codes of Practice) (Jersey) Order 2004. Article 17.1 :-

17 Charging/Bailing of Detained Persons

Action

17.1 When an officer considers that there is sufficient evidence to prosecute a detained person, and that there is sufficient evidence for a prosecution to succeed, and that the person has said all that he or she wishes to say about the offence, the person should without delay (and subject to the following qualification) be brought before the custody officer who shall then be responsible for considering whether or not there is sufficient evidence to provide a realistic prospect of conviction. If the custody Sergeant is of the opinion that there is sufficient evidence, he or she shall without delay arrange for the Connétable or a Centenier to attend the police station. The Connétable or the Centenier shall attend the police station as soon as reasonably practicable and shall be responsible for considering whether the detainee should be charged. When a person is detained in respect of more than one offence it is permissible to delay bringing the person before the custody officer until the above conditions are satisfied in respect of all the offences, (but see paragraph 12.4). Any resulting action should be taken in the presence of the appropriate adult if the person is a juvenile, or mentally disordered or mentally vulnerable. [See Note 17H]

17.2 When a detained person is charged with, or informed that he or she will be prosecuted for, an offence, the person shall be cautioned in the following terms –

“Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.”

17.3 At the time a person is charged he or she shall be given a written notice showing particulars of the offence with which he or she is charged and including the name of the officer in the case (or in terrorism cases, the officer's computerised employee pay code number) and the name and the Parish of the Connétable or Centenier who charges the person. So far as possible the particulars of the charge shall be stated in simple terms, but they shall also show the precise offence in law with which the person is charged. The notice shall begin with the following words –

“You are charged with the offence(s) shown below. Do you wish to say anything? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.”

If the person is a juvenile or is mentally disordered or mentally vulnerable the notice shall be given to the appropriate adult.

17.4 If at any time after a person has been charged with or informed he or she may be prosecuted for an offence, a police officer wishes to bring to the notice of that person any written statement made by another person or the content of an interview with another person, who in respect of the same offence has also been charged or informed that he or she may be prosecuted, the officer shall hand to that person a true copy of any such written statement or bring to his or her attention the content of the interview record, but shall say or do nothing to invite any reply or comment save to caution that person in the terms of paragraph 10.3 above and to remind that person that he or she is entitled to be afforded facilities to consult a legal representative in private, if he or she so requests. If the person cannot read then the officer may read it to the person. If the person is a

juvenile or mentally disordered or mentally vulnerable the copy shall also be given to, or the interview record brought to the attention of, the appropriate adult.

- 17.5 Questions relating to an offence may not be put to a person after he or she has been charged with that offence, or informed that he or she may be prosecuted for it, unless they are necessary for the purpose of preventing or minimising harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement. Before any such questions are put the person shall be cautioned in the terms of paragraph 10.4 above to remind the person that he or she is entitled to legal advice now that he or she has been charged with an offence.
- 17.6 Where a juvenile is charged with an offence and is not granted bail, or otherwise released, the custody officer must try to make arrangements for the juvenile to be taken into care to be detained pending appearance in court.

Once the Centenier has charged an accused, a file will be created and it is the responsibility of the Centenier to have Charge Sheets typed ready for the Court sitting and to ensure that an up-to-date criminal record (PNC) is available to supply both defence and the Magistrate.

Parishes have dedicated Police Secretaries to deal with the paperwork required for the Centenier after charge. In the more urban Parishes these Secretaries can be full time in providing the service required. Funding for the Secretary, or in the case of St. Helier a complete Charges Office due to volume, is funded solely by the rate payers of the Parish. In the past the Centenier would have undertaken most of the work himself. In some Parishes, Centeniers, on occasions, still prepare charge sheets and prepare files when the part-time Police Secretary is on holiday.

On any given morning, there may be several Centeniers from different Parishes attending at the Magistrate's Court. Certain days have been allocated to various Parishes to avoid congestion. It is normal practice for a Centenier, for the Parish whose Court day it is, to arrange the running order of the Court and to ensure that the fellow Centeniers are ready to present cases.

Each Centenier will, if a defence Advocate is required, have made contact with defence prior to the case being called. At times a Centenier may make contact with the defence to ensure that all paperwork has been received so no delays in the case being presented will occur.

Centeniers may be required to amend charge sheets during the court sitting if a charge has been "downgraded" or an error in the charge sheet has been noted by either the Court Greffier or Magistrate. (*The court Greffier is responsible for the administration of the Court and sits directly below the Magistrate. The Greffier will open the Court sitting by saying prayers. After prayers have been said the Greffe will not again address the Court, but will record, by hand, all judgements of the Court.*)

In the simplest of cases, for instance speeding, the Centenier will normally only present an accused once in court and the matter will be dealt with. In cases such as drunk in charge of a motor vehicle or driving without a licence, common assault, to name a few, the Centenier may have to appear in court between three and six occasions before a result is obtained. This can be for several reasons, in some cases defence ask for several remands as they can claim that they have either not had disclosure or have only just received disclosure, and have yet to read it. Once a guilty plea has been entered, further delays can occur when background reports are ordered from external agencies.

Following the conviction, or on the rare occasion that the case is dropped or the case was lost, the Centenier will return the paperwork to the Parish Police Secretary. Some Parishes keep detailed records of the cases Centeniers have dealt with.

The court furnishes the Criminal Justice Unit with the Court results and these are then inputted onto the Police National Computer System. From court judgment to being inputted into the UK and local system would be a maximum of five working days.

In a recent Daily Tabloid Newspaper a headline read **'Confusion and chaos: just another week in the magistrates' court'**. This was then followed by a sub headline of **'One in three cases adjourned needlessly at estimated cost of £600,000,000 a year'**. The article went on to state that:- **More than one in three magistrates' court cases fail to proceed on any given day because of needless adjournment**, reports a Sunday Telegraph reporter. The report continued by stating that out of 230 cases monitored by the newspaper only 29 percent were completed and 38 per cent were adjourned because of unnecessary legal problems. Non-attending defendants caused a further 30 per cent of the delays while incomplete paperwork accounted for 26 per cent and lost files accounted for 18 per cent.

Another Sunday Telegraph report on the 26th February 2006 stated **that the laws of the land are not being enforced, but mocked. Offenders are let off, not because the evidence is examined and they are found innocent, but because magistrates get fed up with the incompetence of prosecution lawyers or their inability to produce the defendant – and dismiss the cases.** The article continues with, **achieving effective justice does not require huge sums of money to be thrown at the courts. Effective justice actually only requires the lawyers and officials working the court system to do their jobs diligently and properly – and defendants to know that absence was well as action has consequences.**

Jersey can be very proud that it does not suffer this type of justice. From the Centeniers that I have interviewed to-date, the common theme is that being a Centenier is very disruptive to their lives It effects both work and social lives and can become so disruptive that good Centeniers have had to resign, due to the pressure it puts on their family life.

Centeniers, including myself, have been threatened over cases. It is also not recognised the pressures and strains placed on the role and at times, Centeniers do suffer from stress.

GENERAL COMMENTS ON THE ROLE OF THE CENTENIER IN COURT

Since becoming a Centenier in August 2003, I have not only undertaken all training sessions given by the Legal Advisors, Laurence O'Donnell and Robin Morris, but on the last training session (APPENDIX (v)), I along with Centeniers Scaife and Renouf, arranged some of the training sessions. Training prior to 1999 was very limited, and it was down to the Chef de Police of the Parish to ensure that new Centeniers had experience in the Court system before presenting cases themselves.

Having viewed both the Jersey Criminal Justice System and the UK System, I can speak from first hand experience on how well the Jersey model stands up to the CPS model.

In 1986, the UK decided to set up a Crown Prosecution Service (CPS) taking away the role of prosecution from the Police. It is interesting to note that the CPS about five years ago realised that a lawyer's time was being taken up in court with minor offences. It was decided to create the post of Designated Case Worker (DCW). (Refer to appendix i – iii for description of function).

The DCW performs a similar function to the Centenier in the way cases are presented in court. But compared to the Centenier, a DCW has far less work to do than a Centenier, who is unpaid, unlike the DCW.

When looking at the work undertaken just in the Court room (that is apart from the many other duties of a Centenier) the Centenier has to arrange the running order of the Court, ensure that the Advocates are ready and to present the cases. The Centenier, unlike a DCW, will also read the charge out in court and arrange for the distribution of the charge sheets, now through the Court Usher.

When cases are remanded for either 14 or 28 days, again the Centenier will have prepared the date to which the accused will be remanded. The Centenier, if a "not guilty" plea is expected, will have prearranged the date for a Pre Trial Review (PTR) or a trial date, prior to the court sitting. This function in the English Court system is undertaken by the Legal Advisor, the position occupied by the Court Greffier.

Centeniers, having on occasions spoken with the Legal Advisor, conduct opposition to bail, not only on first appearance but also on subsequent appearances. The Centenier will also have chased for further statements from witnesses, or for other evidence to be made available.

From my visit to Nottingham Magistrate's Court the DCW does very little apart from read relevant facts on the case. The DCW would not be in a position to have altered, in anyway, the charge sheet and a further remand would be required.

Our Island has a lot to be proud of where the Centeniers are concerned. Centeniers are dedicated people with a great sense of pride in their respective communities.

There has always been criticism of the honorary police and there always will be, but the current system of justice in Jersey is not in such a state of disarray as the UK system appears to be - as reported in the Sunday Telegraph. It works well and has improved since the introduction of the new court building. Advocates are also now turning up before the start of court, which enables them to talk to their clients before the start of the morning court sitting.

The UK CPS system is, in my opinion, in crisis. It is not a system that is highly efficient and a model for Jersey to adopt. While, from time to time, Centeniers get criticism from the Magistrates, on the whole the Centeniers way out-perform either their DCW counterparts or trained lawyers in the CPS model of the UK.

There are some Centeniers whose performance in court is not up to the standard expected, but the Training Sub Group recognises this. It is also fully aware of the problems encountered by Centeniers obtaining time away from their work to attend court sittings. Employers are often reluctant to grant permission for their employees to become Centeniers, due to the time away from the work place, sometimes with little to no notice.

At present, only two Parishes produce figures of the court work they undertake. Included at the end of this document are the Court figures for St. Peter and St. Helier. St Helier is the largest Parish presenting cases in court. That Parish has ten Centeniers, and their time is mainly taken up with Parish Hall Enquires or Court work. Other Parishes like St. Mary may only appear 12 times in a year with one or two cases per month. The Parish of St. Helier has Monday, Wednesday and Friday court booked every week and there will be at least one Centenier from the Parish on each of those days. The St. Helier case load can be as much as 20 plus cases in one morning.

Centeniers, unlike their DCW counterparts, attend at the Youth Court. This follows the work undertaken in the Parish at the Parish Hall Enquiry. The UK Police have recently set-up restorative justice, a system that Centeniers and the Honorary Police system have been utilising for many years. A recent high profile case in the Parish of St. Ouen utilised restorative justice and the Centenier involved with the case received not only a letter of commendation from the Attorney General, but also received recognition from the Jersey Honorary Police Association.

Unlike St. Helier, St. Saviour and St. Clement, St. Peter is fortunate in that we do not attend the Juvenile Court very often. Since the new Magistrates Court has opened, St. Peter's has yet to present a Youth before the Youth Panel.

It must also be understood that the Centenier do not only deal with Court work, charging and bailing. Demands on the Centeniers role can range so dramatically from day to day and from duty week to duty week. Speaking from personal experience, I have attended at court in the morning, completed at 12.30, been dealing with traffic management for a road traffic collision. From there attended at the Parish Hall to write a Centeniers report for a Paper Committal for a Drugs case to the Royal Court, dealt with a stray dog then at around 5pm returned home to have lunch, before returning to the Parish Hall to attend at Parish Hall Enquiries then taken the duty team out on mobile patrol until 1am the following day.

Centeniers are a very dedicated group of people; they do not take lightly the removal of the liberty of an accused person unless there are very good grounds for doing so and sufficient evidence to substantiate the charge.

It does become very daunting on the first occasion when a Centenier refuses bail to an accused and remands that person in custody until the next court sitting. I have not come across a Centenier that does not fully understand that responsibility. For some Parishes, Centeniers may never, during their term of office, ever have to remand an accused in custody and present them before the court the following day.

The Legal Advisors have helped considerably in the training of Centeniers to present cases, to oppose bail to the Magistrate and to ask the Magistrate to decline jurisdiction. Centeniers are taught the four reasons for apposing bail, those being:-

- Fear of absconding
- Interference with the course of justice
- The prevention of crime
- The preservation of public order

Also taught is that if the serious nature of the offence is such that a fine or custodial sentence is likely to be greater than the powers of the Magistrates Court, then the Centenier will ask the Magistrate to decline jurisdiction.

Apart from the advice and help the Legal Advisors give, other Centeniers are available to assist and help their fellow Centeniers from other Parishes. The Centeniers Training Group has tried to set up a mentoring system for Centeniers with less experience. This can be either the court or charging process, and the mentor Centenier will assist in what ever way possible. I have witnessed the dedication of Centeniers way beyond the call of duty to assist fellow Centeniers in the court process.

It is acknowledged that there is room for improved efficiency and as the Criminal Justice System continues to grow, so the Centeniers will need to be able to meet the challenges ahead. The Centeniers have adapted very well to the move to the new Magistrates Court and I think it has become apparent to most, exactly how much work is undertaken by the Centenier on a daily basis in the smooth running of the court.

Having seen the two models work, I cannot see why Jersey would wish to introduce a system that is very expensive, has demonstrated inefficiencies and would not produce a better outcome at the end of the day. Whilst the Jersey model would not work in the UK, there are certain parts of our unique system that perhaps other jurisdictions could benefit from.

During my conversation in the UK with both Police and CPS lawyers, the theme was, ***'you should fight, with every breath, to keep and maintain a system that sound very impressive and obviously works well'***.

The honorary system has served this Island well for 800 years. It has diminished over time due to varying economic and social pressures. I do not advocate the introduction of paying Centeniers. The system would then start to see the same criticisms as directed at States Members, with the perception that some candidates are attracted by the income to be gained and not for the sense of duty, and the will to serve the Island. It has to be said that being a Centenier in a very busy Parish can impose a heavy financial burden, in income lost.

Prior to 1974, the Centenier was empowered with the right of arrest, and the "Paid Police", as they were called in those days, could only detain an accused. The Centenier and his fellow officers would investigate all occurrences within their Parish, without assistance from the "Paid Police", unless requested. It was rare for a country Parish to ask for assistance from the Police Force at that time. All changed when the "Paid Police" became the States of Jersey Police Force and for the first time had an

Island-wide mandate. Prior to 1974, the "Paid Police" would have had to seek permission to enter into a country Parish to apprehend an offender.

Further research time is not available to produce accurate figures for the years 2004 and 2005, of the successful prosecutions undertaken by the Centeniers and the Legal Advisors. It is my understanding that the Jersey system produces a 91 per cent success rate of prosecutions. This is far higher than any other jurisdiction and is something that the Island should be proud of.

Having obtained the statistics produced by the Magistrate's Court Greffe, in 2002 the Magistrate's Court dealt with a total of 3625 cases. Of these, 225 were committed to the Royal Court. The legal Advisers department dealt with 220 of the total cases dealt with in the Magistrate's Court and all those committed to the Royal Court. The Centeniers therefore dealt with 3180 cases. This equates to 62 cases per week. Approximately 70 per cent of all criminal cases are dealt with on the first appearance, the majority of them by way of guilty pleas.

If one takes the figures of four Legal Advisors handling 220 cases during the year 2002, how many Legal Advisors would be needed to deal with 62 cases per week or 3180 per annum?

There are presently very few appeals from the Magistrate's Court to the Royal Court. Both defendant and prosecution may appeal, but the prosecution can only do so on the grounds that the decision was *ultra vires* or in excess of the Magistrate's jurisdiction.

The Legal Advisors now prosecute all but the most simple and straightforward cases. They only proceed with cases where the Evidential Test has been passed. Judgments given by the Magistrates are now fully reasoned with minute consideration making by a Magistrate who, in serious cases takes an accusatorial role, this does not often result in appealable decisions. The Magistrate only sits in an inquisitorial role in trials brought by the Centeniers. He conducts the examination in chief of witnesses for the prosecution and cross-examination of defendant and defence witnesses.

From my experience members of the public I have dealt with at the Parish Hall would rather deal with a Centenier than the cold face of a Magistrates Court or a faceless fixed penalty notice.

If at any point the Attorney General is unhappy with any aspect of the Centeniers work, he can over-rule a decision. The Attorney General's door has always been open for me or any other Centenier, when needed.

If the UK model of a Crown Prosecution Service is to be adopted by the Island, then not only will the Island lose a most valuable service, but everyone in this Island will be a lot poorer both economically and socially. A 500 year-old tradition will be lost. The minimum estimated cost of establishing a CPS model could be in the region of between £5 and £7 million per annum. This figure could increase year on year, as the Crown Prosecution Service would need to be extended to cope with an ever increasing work-load. States Members and the general public would soon start to appreciate the voluntary contribution of the Centeniers and the Honorary Police.

APPENDIX

APPENDIX (i)

Guidance to CPS Areas Concerning Deployment and Supervision of Designated Caseworkers (DCWs)

1. Introduction

1.1 This guidance is issued in accordance with paragraph 1.4 of the Director of Public Prosecutions' General Instructions to Designated Caseworkers Pursuant to Section 7A(3) and (4) of the Prosecution of Offences Act 1985 (the General Instructions).

1.2 CPS Areas should refer to this guidance when:

- making deployment decisions in relation to DCWs;
- liaising with local magistrates' courts concerning appropriate listing arrangements;
- making arrangements for the supervision of DCWs' work; or
- making arrangements to ensure that the appropriate standard of instructions (written or oral) from CPS lawyers is provided to DCWs in order to enable them to perform their function.

1.3 This guidance replaces the Governance Scheme for Crown Prosecution Service Designated Caseworkers (April 2004), which is hereby revoked, as of 2 January 2006.

1.4 Paragraphs 3.1 and 3.2 of the Statement of Ethical Principles for Crown Prosecution Service Designated Caseworkers are amended as of 2 January 2006 to read as follows:

3.1 Designated caseworkers are employees of an independent prosecution authority and must perform their role fairly and impartially. Their line manager or Crown Prosecutor approved by the line manager will supervise them in accordance with the Guidance to CPS Areas Concerning Deployment and Supervision of Designated Caseworkers.

3.2 A Designated caseworker must review and present cases before the magistrates' court in accordance with the DPP's General Instructions to CPS Designated Caseworkers.

2. General Principles

2.1 It is important in respect of maintaining public confidence in the work of DCWs, and likewise the confidence of victims and witnesses and partner agencies in the criminal justice system, that DCWs operate under supervision of Crown Prosecutors as required by this guidance.

2.2 DCWs must not undertake work that is outside the Director's General Instructions.

- 2.3 In making any decision to deploy an individual DCW, or when considering the appropriate level of supervision required by that individual, CPS Areas must always have regard to the individual's level of ability, training and/or experience.
- 2.4 Training may be DCW-specific, or any other relevant training, including courses the DCW has attended with CPS lawyers.
- 2.5 In interpreting these guidelines, it is important to note that the legal limits of DCWs' authority are set by the General Instructions. Where these guidelines indicate specific situations in which Areas ought to exercise additional care before making deployment decisions, they are not to be taken as imposing legal prohibitions which are additional to those in the General Instructions. Any restrictions on deployment may be subject to revision in future editions of this Guidance.

3. Accountability

- 3.1 Chief Crown Prosecutors are personally accountable, through the annual Certificate of Assurance, for ensuring that DCWs operate under appropriate supervision and do not make casework decisions or conduct criminal proceedings which are reserved to Crown Prosecutors.
- 3.2 Each CPS Area should adhere to the system for auditing compliance with
- the General Instructions; and
 - this guidance;
- referred to in section 10 below.

4. Review and Supervision

- 4.1 DCWs will be supervised by their Crown Prosecutor Manager or other Crown Prosecutor approved by the Line Manager, who will:
- allocate DCW review work falling within Section 3 of the General Instructions to the DCW (Powers to Review and Determine Proceedings), in accordance with paragraph 2.3 of this guidance;
 - advise the DCW on relevant matters, providing appropriate guidance and assistance as to law and procedure; and
 - ensure that the DCW is not allocated court duties, or put under pressure from courts to discharge such duties, falling outside Section 2 of the General Instructions, or that are otherwise inconsistent with this guidance.
- 4.2 Where, during the review of a case, the DCW considers that factors are present which mean that the case does not fall within the review function of DCWs as set out in Section 3 of the General Instructions, this must be brought to the attention of the DCW's Crown Prosecutor Manager or supervising Crown Prosecutor. If the case does not fall within Section 3 of the General Instructions, or there is genuine doubt as to whether it does, it must be allocated to a Crown Prosecutor for review.
- 4.3 Where, otherwise than as provided for in Section 3 of the General Instructions, a DCW is aware that the defendant or the defendant's representative is making representations with a view to seeking discontinuance of the proceedings by the prosecution (or similar disposal, equivalent to discontinuance), or the DCW is otherwise of the view that discontinuance may be appropriate, the matter must be referred to a Crown Prosecutor for a decision.

4.4 Where, otherwise than as provided for in Section 3 of the General Instructions, an accused is charged with two or more offences, or a single offence that may give rise to a plea of guilty to a lesser offence, and the question arises as to whether a certain plea or pleas would be acceptable, the DCW must (where there are no instructions on the file concerning the matter) discuss and agree with a Crown Prosecutor what would amount to an acceptable plea in accordance with the Attorney General's Guidelines on Acceptance of Pleas and the Prosecutor's Role in the Sentencing Exercise. The file should be endorsed to this effect by the Crown Prosecutor. If the DCW has consulted the Crown Prosecutor by telephone, the DCW is responsible for endorsing the file as soon as practicable thereafter.

4.5 A suitably experienced Crown Prosecutor, under the supervision of a Crown Prosecutor Manager, must be available to provide guidance and assistance in accordance with paragraph 4.1 above while the DCW is at court, should the need arise. The Crown Prosecutor should be either present at the court or contactable by telephone.

5. Preparation for Court

5.1 A DCW attending court must prepare for the hearing by becoming familiar with all the cases to be presented, including those reviewed by colleagues, and must be aware of the court's sentencing powers. The time it takes to achieve this will naturally depend on the number and nature of the cases in that court, and the level of experience and ability of the DCW.

5.2 Crown Prosecutor Managers are responsible for ensuring that DCWs under their supervision have adequate time to prepare for court, during their normal working hours. but there is no requirement that they be allowed a fixed minimum period for court preparation.

5.3 Where the DCW expresses any concern, for example, regarding the provision of adequate preparation time or instructions from a suitably experienced lawyer, the Crown Prosecutor Manager or supervising Crown Prosecutor must reconsider the decision as to who should present any or all of the allocated cases to the court.

6. Early Administrative Hearings (EAHs)

6.1 In reviewing matters which fall to be listed for an EAH, whether such review occurs in accordance with statutory charging arrangements or otherwise, Crown Prosecutors should endorse their review record (whether on the file jacket or on some other document such as an MG3/MG3A attached to the file) with:

- a note of the appropriate charge(s); and
- the appropriate venue for trial.

Where relevant, the Crown Prosecutor should also enter details of:

- the acceptability of any plea to a lesser or alternative charge;
- the acceptable factual basis of such plea;
- instructions with respect to bail.

6.2 A DCW dealing with the relevant EAH must comply with the above endorsements and not depart from them without the approval of the Crown Prosecutor Manager or supervising Crown Prosecutor.

6.3 Where a case allocated to a DCW and listed for EAH has not been reviewed in accordance with paragraph 6.1, the DCW will refer the file to the Crown Prosecutor Manager or supervising Crown Prosecutor for the appropriate endorsements to be made before the EAH.

7. Pre-Trial Review Hearings (PTRs)

7.1 A DCW may be deployed to deal with PTRs in magistrates' courts, namely hearings following the entering of a not guilty plea or pleas by the defendant and up until (but not including) the trial hearing itself.

7.2 PTRs are suitable to be assigned to DCWs where they constitute routine case management or case progression hearings, whereby the court monitors progress towards trial and makes basic directions in relation to same (for example, that primary disclosure, section 9 notices or trial bundles are served by certain dates).

7.3 This includes hearings where material or notices are served relating to issues such as disclosure, special measures, bad character or hearsay, where the prosecution applies for a witness summons under section 97 of the Magistrates' Court Act 1980, or where other routine arrangements are made for the hearing of evidence at the trial including (but not restricted to):

- whether certain evidence can be agreed and read;
- whether witnesses can be staggered, where proceedings are listed for more than one day; or
- whether specific audio/visual equipment is required.

Where there are **contested** applications in relation to such matters, please refer to paragraphs 7.6 – 7.8 below.

7.4 Where a DCW is deployed to deal with routine PTRs in accordance with this guidance, the DCW must have instructions for dealing with all the issues which are likely to arise at that hearing, either from the reviewing lawyer, a supervising Crown Prosecutor, or the Crown Prosecutor Manager. Such instructions should be in writing and endorsed on the file or on a suitable document appended to the file. Where oral instructions are given, the DCW should endorse these on the file.

7.5 If any substantive issue arises during the course of a routine PTR which is not covered by instructions given in accordance with paragraph 7.4, and the matter would be such as to require a decision from a Crown Prosecutor, the DCW should either seek a short adjournment to obtain the necessary instructions, or (where this is not possible) request that the matter be deferred to a further PTR hearing.

7.6 DCWs must not be deployed where the pre-trial hearing is of a non-routine nature, involving technical legal arguments.

7.7 Non-routine pre-trial hearings would include hearings of **contested** applications where binding rulings under section 8A of the Magistrates' Court Act 1980 (as amended by Schedule 3 of the Courts Act 2003) are likely to be made in relation to:

- the admissibility of evidence in the proceedings, whether under section 76 or 78 of PACE, or otherwise (including admissibility of bad character and hearsay evidence);
- any other question of law relating to the case in question, including whether proceedings ought to be stayed for abuse of process, special measures for

vulnerable/intimidated witnesses and technical issues concerning CPS or police compliance with disclosure obligations; or

- a **contested** application under section 8B(3) of the Act to vary or discharge a binding ruling previously made in the proceedings.

The purpose of binding rulings is to determine **disputed** evidential or legal issues at an early stage in the magistrates' court proceedings. The provisions are intended to enable preparation for trial and to restrict the opportunity for either party to re-argue the same point at the trial hearings. The magistrates' court may only make a pre-trial ruling on one of the above matters if the court has given the parties an opportunity to make representations. Please refer to the CPS legal guidance on section 8A binding rulings.

- 7.8 Other non-routine pre-trial hearings unsuitable for DCWs would include hearings of contested applications by the defence for disclosure of specific unused material pursuant to section 8 of the Criminal Procedure and Investigations Act and r25.6 of the Criminal Procedure Rules 2005.

8. Bail Applications – Adults

- 8.1 A DCW may be deployed (in the case of adult offenders) to deal with a hearing in which there is an application in relation to the Bail Act 1976, whether the matter concerns:

- an application for bail;
- an application to vary bail conditions; or
- proceedings for breach of bail conditions.

Such deployment should take into account the factors in paragraph 2.3 of this guidance.

- 8.2 Where a DCW is deployed to deal with such an application, the DCW must be given instructions from a Crown Prosecutor. The instructions may be endorsed on the file (or an attached document) by a Duty Prosecutor, the prosecutor at a previous hearing, or the reviewing lawyer. Where given orally to the DCW, the instructions should be endorsed on the file by the DCW as soon as practicable thereafter. The instructions given to the DCW should deal with:

- whether the application should be opposed;
- the relevant objections to bail;
- the substantive grounds relevant to each; and
- (if applicable) what conditions of bail are acceptable; or
- whether a particular allegation of breach should be proceeded with.

- 8.3 The DCW should ensure that any bail decision is clearly endorsed on the file including the relevant grounds for withholding bail given by the court and, where bail is granted, details of any conditions imposed.

- 8.4 Where a DCW has been allocated a case listed for a Bail Application, which has no instructions in accordance with paragraph 8.2, the DCW must refer the case to the Crown Prosecutor Manager or supervising Crown Prosecutor for the appropriate instructions to be given, and for the file to be endorsed accordingly. If the consultation

is by telephone, the DCW is responsible for endorsing the file as soon as practicable thereafter.

Overnight remand courts

- 8.5 Due to the possible difficulty in obtaining sufficient instructions in respect of bail, and the likelihood that overnight lists will often include indictable-only offences, it will be unusual for a DCW to be deployed in an 'overnight' remand court. However, these may be difficulties that can be overcome at individual court centres, as a result of appropriate liaison between the CPS and the court, and where sufficient levels of support and supervision are made available to DCWs. Where DCWs are deployed to deal with courts containing overnight matters, please refer to paragraph 5.3.

Bail Amendment Act appeals

- 8.6 Where the Crown Prosecutor has decided to recommend a remand in custody in a case to which the Bail Amendment Act 1993 applies (namely, the offence is one punishable by imprisonment – see section 18 Criminal Justice Act 2003), he or she must then go on to consider whether an appeal would be appropriate in the event that the Court decides to grant bail. The recommendation must be clearly endorsed on the file.
- 8.7 Where there is no clear recommendation in relation to this issue on the file, and the DCW considers that the case may be one where an appeal under the Bail Amendment Act might be appropriate, the DCW should obtain instructions before the hearing. If necessary, a short adjournment should be sought.
- 8.8 Before proceeding to serve the requisite written notice of appeal against the grant of bail, the DCW should obtain approval from a nominated Crown Prosecutor, Head of Unit or Level E Lawyer. Please refer to the CPS legal guidance in this respect. Chief Crown Prosecutors must ensure that contact details of nominated prosecutors (normally Senior Crown Prosecutors of at least four years' service or more senior lawyers) are available at all court centres where DCWs are deployed.
- 8.9 Where there is no clear recommendation in relation to this issue on file and the DCW considers that the case may be one where an appeal under the Bail Amendment Act might be appropriate, the DCW should obtain instructions before the hearing. If necessary, a short adjournment should be sought.

Custody Time Limit applications

- 8.10 Where the prosecution is seeking an extension of Custody Time Limits, and the extension is likely to be opposed, a DCW should not be deployed to deal with the application for the extension, as such hearings are likely to involve complicated disputes over facts and/or law.

Breach of bail hearings

- 8.11 A DCW may deal with proceedings for breach of bail conditions, irrespective of whether live evidence will be called during the hearing.
- 8.12 Where such applications are dealt with strictly in accordance with the procedure approved in *R -v- Liverpool City Justices ex p DPP* (1993) QB 233, this issue will not arise. There is no necessity for the giving of evidence on oath or for cross-examination. Although the Justices should give the defendant an opportunity to respond to what the prosecution alleges, the strict rules of evidence do not apply and the court can consider what might otherwise be regarded as "hearsay".

- 8.13 It will not therefore be necessary for the DCW formally to call oral evidence, and the relevant grounds for the defendant's arrest can be recited to the court from the material available on file.
- 8.14 However, some courts may permit the defendant to adduce oral evidence, as a result of which cross-examination of the defendant (or other defence witness) may be appropriate. In such cases, the issues are likely to be very narrow (e.g., why, if the defendant was complying with his curfew, he did not come to the door when police called to check whether he was at home), and the DCW may therefore continue to deal with the matter and put the relevant questions to the defendant/witness. The DCW may consult with a Crown Prosecutor to obtain additional instructions for this purpose, if the DCW considers it is necessary in the particular circumstances of the case.

Excluded proceedings

- 8.15 DCWs cannot deal with bail applications that occur during proceedings excluded by paragraph 2.4 of the General Instructions namely proceedings:
- for an offence triable only at the Crown Court;
 - for an either-way offence in relation to which the defendant has, at a previous hearing, elected to be tried at the Crown Court;
 - for an either-way offence in relation to which the magistrates have decided, at a previous hearing, that Crown Court trial would be more suitable;
 - for an offence in relation to which a notice of transfer has been given under section 4 of the Criminal Justice Act 1987 or section 53 of the Criminal Justice Act 1991;
 - that take the form of a criminal trial, beginning with the opening of the prosecution case after the entry of a plea of not guilty by the defendant or the defendant's representative and ending with the conviction or acquittal of the defendant;
 - that take the form of a Newton Hearing; or
 - that take the form of a 'special reasons' hearing, namely where the offence carries obligatory disqualification and the defendant is calling evidence in support of 'special reasons' as to why he or she should not be disqualified from driving.

9. Youths and Youth Courts

- 9.1 The CPS is committed to ensuring that the special considerations which apply to cases involving a young offender are enshrined in its working practices and form part of the training of its prosecutors. DCWs undertaking any advocacy work in youth courts must:
- have regard to and apply the CPS Legal Guidance on Youth Offenders;
 - be aware of the procedural differences between youth and adult courts; and
 - be familiar with the principles of youth sentencing.

Crown Prosecutor Managers should satisfy themselves that DCWs are suitably aware of, and familiar with, the above matters before they are deployed in youth courts.

'Indictable-only' offences

9.2 Many offences which would be triable only at the Crown Court in the case of an adult (e.g., robbery) are in fact triable in a youth court, so that they become "either way" there: see *R v Stratford Youth Court, ex parte S* [1998] 1 WLR 1758. Section 24 of the Magistrates' Court Act 1980 states that a person aged under 18 appearing in or brought before a magistrates' court **must** be tried summarily, unless:

- the charge is one of homicide; or
- the conditions under section 51A(1) of the Firearms Act 1968 would be satisfied, were the defendant to be convicted of the qualifying offence; or
- section 91 of the Powers of Criminal Courts (Sentencing) Act would apply to make the matter a "grave crime" (see further below); or
- the defendant is charged jointly with an adult, and either section 51(5) of the Crime and Disorder Act 1998 applies so that the defendant should be sent for trial at the Crown Court, or it is otherwise in the interests of justice to commit the youth for trial on indictment with the adult.

9.3 DCWs can therefore be deployed to deal with any matter in the youth court which is 'either-way' in the light of the above (e.g. robbery), or triable only summarily, subject to:

- paragraphs 9.4 – 9.7 below;
- paragraph 2.4 of the General Instructions (preventing DCWs from dealing with matters being committed for trial or transferred to the Crown Court, trials, Newton hearings or 'special reasons' hearings); and
- any considerations applicable to the individual case which would make it clearly unsuitable for a DCW to deal with it, either because of its sensitivity (e.g., likely media interest, sexual offences, or any case involving a fatality) or because of complex/difficult issues relating to the court's sentencing powers.

Areas are expected to exercise proper care and discretion in deploying DCWs to deal with offences which would be indictable-only in an adult court, and there should be no such deployment unless the matter is clearly suitable for the DCW.

Grave crimes

9.4 Due to the sometimes highly technical nature of legal argument relating to the mode of trial in youth courts, DCWs must not deal with matters which might be deemed 'grave crimes' there, until the youth court has formally accepted jurisdiction over them, or unless they fall within paragraph 9.6 below.

9.5 This means that until the youth court has actually determined that it is the appropriate venue for proceedings, DCWs must not deal with the following:

- (subject to paragraph 9.6 below) any offence that in the case of an adult carries 14 years or more imprisonment;
- an offence of indecent assault;
- an offence contrary to section 3, 13, 25 or 26 of the Sexual Offences Act 2003; or
- (where the defendant was aged at least 16 at the time of committing the offence) any offence contrary to section 5(1)(a), (ab), (aba), (ac), (ae), (af), (c), or 5(1A)(a) of the Firearms Act 1968.

- 9.6 The '14 years or more imprisonment' criterion operates such as to include some relatively minor offences. An example would be dishonestly handling a stolen mobile telephone. Where the prosecution is not going to represent that the matter should be committed to the Crown Court, and it is clear that the youth court would have no hesitation in accepting jurisdiction, the decision regarding mode of trial must be clearly endorsed on the file and the matter may properly be dealt with by a DCW.
- 9.7 Where there is any doubt about such matters, the issue must be referred to the Crown Prosecutor Manager or supervising Crown Prosecutor for a decision, which should be endorsed on the file and COMPASS CMS.

Dangerous offenders – youths

- 9.8 Section 51A(2) and (3)(d) of the Crime and Disorder Act 1998 (as amended by paragraph 18 of Schedule 3 of the Criminal Justice Act 2003) requires the court to send forthwith for trial a youth who is charged with a specified offence and is deemed dangerous. This means that some offences (such as, for instance, assault occasioning actual bodily harm) may become indictable-only in the case of particular youth offenders. Due to the complex and highly technical nature of the law in this area, DCWs must not be deployed for a hearing where arguments relating to the application of section 51A of the 1998 Act would be appropriate.

Contested youth bail

- 9.9 Due to the difficult considerations that are likely to arise in the course of contested bail applications concerning youths, particularly where the court may have to consider a remand into local authority accommodation with a security requirement (if section 23(5) Children and Young Persons Act 1933 is applicable), DCWs must not deal with such applications. This includes breach of bail proceedings, where the prosecution would object to a renewal of bail if the breach was admitted or proved.

Determining the age of a youth

- 9.10 Section 99 of the Children and Young Persons Act 1933 places a duty on the court to determine the age of the young person, in the event that there is any dispute about this. The court does so on the basis of any information put before the court as well as the physical appearance of the young person. The exercise is essentially a fact-finding one, and there are no formal evidential requirements, so the situation is analogous to the relative informality of proceedings regarding breach of bail. The considerations outlined in paragraph 8.14 therefore apply.

Review

- 9.11 DCWs have no role in the review of youth files except where paragraphs 3.5 or 3.6 of the General Instructions would apply to allow a very routine level of decision-making, enabling the DCW to:
- seek a minor amendment to a summons or charge to correct an error as to the value of property, the date or dates of the offence(s), the venue of the offence(s), or the description of an object; or
 - (in non-specified proceedings) withdraw a road traffic matter requiring the production of documents, when the defendant has produced the documents to a police officer, and the police officer has confirmed this.

Avoiding delays

9.12 It is very important to avoid unnecessary delay in proceedings involving a youth, and this is particularly so where the defendant is a persistent young offender (PYO). DCWs must therefore have clear instructions from the reviewing lawyer, Crown Prosecutor Manager or supervising Crown Prosecutor on all the issues that are likely to arise at hearings.

10. Auditing Compliance with the DCW Scheme

10.1 Compliance with the General Instructions and this guidance will be monitored through the Casework Quality Assurance Scheme.

10.2 The Casework Quality Assurance Scheme provides managers with a systematic dip sample of the work of lawyers in their Unit. It operates on both live cases, enabling remedial action to be taken, and on finalised cases, enabling analysis of outcomes and delay.

10.3 This scheme extends to work done by DCWs. Two Early Administrative Hearing files per DCW will be selected each month and subjected to casework quality assurance checks, ensuring that DCWs operate within the remit of this scheme and providing a framework for feedback to DCWs on their performance.

10.4 The questions in the Casework Quality Assurance Questionnaire will cover:

- Did the case fall within the Director of Public Prosecutions' General Instructions to CPS Designated Caseworkers (in the light of the Guidance to CPS Areas Concerning Deployment and Supervision of Designated Caseworkers)?
- Did the Crown Prosecutor's endorsement include appropriate instructions to the DCW on bail, charges, pleas and venue?
- Did the DCW prosecute the case in accordance with the instructions of the Crown Prosecutor?
- Was the authority of a Crown Prosecutor obtained to amend/drop charges, where any amendment of or dropping of charges fell outside paragraphs 3.5 and 3.6 of the Director of Public Prosecutions' General Instructions to CPS Designated Caseworkers?

11. National Standards of Advocacy

11.1 DCWs will comply with the CPS National Standards of Advocacy insofar as they apply to the work within the DCW remit.

December 2005

APENDIX (ii)

DIRECTOR OF PUBLIC PROSECUTIONS' GENERAL INSTRUCTIONS TO CROWN PROSECUTION SERVICE DESIGNATED CASEWORKERS, PURSUANT TO SECTION 7A(3) AND (4) OF THE PROSECUTION OF OFFENCES ACT 1985 ('the Act')

1. Preamble

- 1.1 These instructions will take effect on 2 January 2006, and will apply to all CPS employees designated by the Director in accordance with section 7A(1) of the Act. Any such employee will be referred to in these instructions as a Designated Caseworker ['DCW'].
- 1.2 These instructions apply whether the DCW has been so designated prior to the date specified in paragraph 1.1, upon that date, or subsequently.
- 1.3 Upon these instructions taking effect in accordance with paragraphs 1.1 and 1.2, all previous instructions issued to DCWs pursuant to section 7A(3) and (4) of the Act, and set out in the appropriate Annex of the Director's annual report to the Attorney General in accordance with section 7A(7)(c) of the Act, will cease to have effect.
- 1.4 The Director may from time to time issue guidance to CPS Areas as to how to approach implementation of these instructions, and dealing with related matters including procedures for supervision of DCWs and training requirements relevant to certain duties.

2. Powers and Rights of Audience

- 2.1 All DCWs will exercise the powers and rights of audience of a Crown Prosecutor in the conduct of criminal proceedings in magistrates' courts, including those concerning a defendant's application for bail, or application in relation to bail (including proceedings for breach of bail), whether or not the matter is contested and whether or not the defendant is an adult or youth, except to the extent that the proceedings are any of the excluded proceedings listed in paragraph 2.4 below.
- 2.2 All DCWs will exercise the powers of a Crown Prosecutor in the conduct of criminal proceedings in magistrates courts, including the power to review such proceedings in accordance with the Code for Crown Prosecutors and to determine such proceedings, except to the extent that the proceedings are any of the excluded proceedings listed in paragraph 2.4 below.
- 2.3 The powers of a DCW to review and determine proceedings are further subject to Section 3 below.
- 2.4 For the purpose of these instructions, excluded proceedings are proceedings:
 - for an offence triable only at the Crown Court;
 - for an either-way offence in relation to which the defendant has, at a previous hearing, elected to be tried at the Crown Court;
 - for an either-way offence in relation to which the magistrates have decided, at a previous hearing, that Crown Court trial would be more suitable;
 - for an offence in relation to which a notice of transfer has been given under section 4 of the Criminal Justice Act 1987 or section 53 of the Criminal Justice Act 1991;

- that take the form of a criminal trial, beginning with the opening of the prosecution case after the entry of a plea of not guilty by the defendant or the defendant's representative and ending with the conviction or acquittal of the defendant;
- that take the form of a Newton Hearing; or
- that take the form of a 'special reasons' hearing, namely where the offence carries obligatory disqualification and the defendant is calling evidence in support of 'special reasons' as to why he or she should not be disqualified from driving.

2.5 A DCW may exercise the powers and rights of audience of a Crown Prosecutor in order to prove a summary matter in the defendant's absence under section 12 of the Magistrates' Court Act 1980, if and only if there has been no response to the summons and the court proceeds to hear the case in the absence of the accused.

3. Powers to Review and Determine Proceedings

3.1 The fundamental principle is that DCWs shall only review magistrates' courts cases which are straightforward and which involve no difficult technical issue, or other complication of fact or law.

3.2 Consistent with that basic principle, DCWs shall only review summary or either way offences where:

- the defendant is an adult; and
- the matter is summary-only or considered to be suitable for summary disposal; and
- a guilty plea is reasonably expected; or
- (if otherwise) the offence is a minor road traffic offence, provided that the defendant is not a youth.

3.3 A guilty plea may reasonably be expected where a defendant has admitted the offence to police, or the offence has been witnessed by a police officer or police officers and the defendant has given no indication that he or she will plead not guilty.

3.4 A DCW may not review a case in relation to which any of the following applies:

- the decision to charge was not made in compliance with the Director's Guidance on Charging under section 37A of the Police and Criminal Evidence Act 1984, where it is in force in the Area;
- the offence is indictable only;
- where a summary matter, the defendant has pleaded not guilty and the matter has already been set down for summary trial;
- where an either way offence, the matter is awaiting committal or transfer;
- the offence requires the consent of the Director of Public Prosecutions or Attorney General;
- the case involves a defendant who is a youth;
- the matter may be considered sensitive, for example it involves a fatality, a child victim, the defendant is a serving police officer, it relates to a racial incident, or

there is some other relevant factor likely to place the case within such a category of sensitivity;

- the charges allege the burglary of a dwelling, or the supply or possession with intent to supply of a controlled drug, irrespective of whether these offences are admitted. In relation to the former, a Crown Prosecutor will have to determine whether section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 (the 2000 Act) applies. In relation to the latter, a Crown Prosecutor will similarly need to determine whether section 110 of the 2000 Act applies, where the drug is Class A, or committal to the Crown Court for a judge to consider confiscation under the Proceeds of Crime Act is otherwise appropriate;
- any dispute as to the facts is such as to raise the possibility of an order under section 58(7) and 58(8) of the Criminal Procedure and Investigations Act 1996 relating to derogatory mitigation; or
- the matter involves obligatory disqualification and there is notification from the defendant or the defendant's representative prior to any review that evidence will be called in respect of 'special reasons' as to why the defendant should not be disqualified.

3.5 Where it becomes apparent during either the review of the file, or during a subsequent hearing, that a summons or charge requires a minor amendment, for example, to correct:

- an error as to the value of any property,
- the date or dates upon which an offence took place,
- the venue for the offence, or
- the description of any relevant object (including the registration details of a vehicle),

the DCW may amend it or apply to the court to amend it without reference to a Crown Prosecutor.

3.6 Without prejudice to the generality of paragraph 3.5, where:

- the matter charged is a road traffic offence involving production of documents by the defendant (otherwise than in specified proceedings), and the defendant has produced documents to the court's Police Liaison Officer (PLO) or other police officer; and
- the DCW is satisfied, as a result of speaking to the PLO or other police officer (or upon seeing a suitable signed statement from either), that the substantive charge is no longer sustainable,

the DCW may withdraw the substantive charge or summons without reference to a Crown Prosecutor and proceed on any alternative charges that are also before the court.

3.7 Where in situations other than those described in paragraph 3.5 or 3.6, the DCW proposes a course of action involving the amendment/substitution/ withdrawal or discontinuance or a charge or summons, a Crown Prosecutor must be consulted for a decision. The Crown Prosecutor will then endorse the file as to any decision taken. If the Crown Prosecutor is consulted on the telephone, the DCW should endorse the file with the decision.

Designated Caseworker Criteria For Review And Presentation

PRINCIPLE

The fundamental principle is that designated caseworkers will review and present magistrates' court cases which are straightforward and with on technical issues or complications of fact in law.

The case must be anticipated a guilty plea meeting the criteria set out below, or involve minor road traffic offences which will be dealt with under the proof in absence procedure.

The criteria are intended to operate within the context of arrangements between the CPS and the courts which will involve cases meeting the criteria being marshalled and listed together.

The supervising Crown Prosecutor will adhere to these principles when allocating cases to the designated caseworker and, in addition, will have regard to the following:-

- The nature and surrounding circumstances of the offence;
- The ability, training and experience of the caseworker;
- And other matter which may have a bearing upon whether the case is suitable for review or presentation by the caseworker.

CRITERIA

Guilty plea

A designated caseworker who is suitably trained and supervised by a Crown Prosecutor may review and present cases in the Magistrates' Court where each of the following applies:

- The offence before the court is summary and/or triable either way, with the proviso that the either way offence must be considered suitable for summary disposal;
- The case involves only adult offenders;
- The accused is on bail and there is no objection to its continuance or the accused has been remanded in custody by the court following a guilty plea;
and
- There is no significant dispute as to the facts, and the offence is admitted in interview with police or;
- A police officer has witnessed the commission of the offence and the accused has given no indication that he intends to plead not guilty.

Road traffic offences – proof in absence

A designated caseworker who is suitable trained and supervised by a Crown Prosecutor may also review and present cases in the Magistrates' Court where:

- The offence is a road traffic offence and which could be dealt with under section 12 MCA 1980, but where there has been no response to the summons and the court proceeds to hear the case in the absence of the accused.

CODE ON THE DECISION TO PROSECUTE FOR CENTENIERS

1. Introduction

1.1 The decision to prosecute (i.e. to charge) an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a small case a prosecution has serious implications for all involved - the victim, a witness and a defendant. Centeniers are to apply the Code to ensure that they make fair and consistent decisions about prosecutions.

1.2 The Code contains important information for those who work in the criminal justice system and the general public. It helps Centeniers to play their part in ensuring that justice is achieved.

2. General principles

2.1 Each case is unique and must be considered on its own. There are, however, general principles which apply in all cases.

2.2 The duty of the Centenier is to make sure that the right person is prosecuted for the right offence and that all relevant facts are given to the Court.

2.3 Centeniers must be fair, independent and objective. They must not let their personal views of the ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

3. **The Code tests**

3.1 There are two stages in any decision to prosecute. The first stage is the **evidential test**. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be. If the case does pass the evidential test the Centenier must decide if a prosecution is warranted in the public interest.

3.2 The second stage is the **public interest test**. The Centenier will only start or continue a prosecution when the case has passed both tests. The evidential test is explained in section 4 and the public interest test is explained in section 5.

4. **The Evidential test**

4.1 Centeniers must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.

4.2 A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged.

4.3 When deciding whether there is sufficient evidence to prosecute, Centeniers must consider whether the evidence can be used and is reliable. There will be many cases in which the evidence does not give any cause for concern. There will, however, also be cases in which the evidence may not be as strong as it first appears. Centeniers must ask themselves the following questions:

Can the evidence be used in Court?

- (a) Is it likely that the evidence will be excluded by the Court? There are certain legal rules which might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was gathered or because of the rule against using hearsay as evidence? If so, is there enough other evidence to ensure a realistic prospect of conviction?

Is the evidence reliable?

- (b) Is it likely that a confession is unreliable because (for example) of the defendant's age, intelligence or lack of understanding?
- (c) Is the witness's background likely to weaken the prosecution case? For example, does the witness have any dubious motive that may affect his or her attitude to the case or a relevant previous conviction?
- (d) If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?

4.4 Centeniers should not ignore evidence because they are not sure whether it can be used or is reliable. They should, however, look closely at it when deciding if there is a realistic prospect of conviction.

- 4.5 Where Centeniers have concerns over the possible exclusion of evidence, they should consult and be guided by the advice of the Police Legal Adviser.

5. **The Public Interest test**

- 5.1 In 1951, Lord Shawcross (Attorney General for England) made a classic statement on public interest which has been supported by Attorneys General ever since:

“It has never been the rule in this country - I hope it never will be - that suspected criminal offences must automatically be the subject of prosecution” (House of Commons Debates, Volume 483, column 681, 29 January 1951).

- 5.2 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the Court for consideration when sentence is being passed.
- 5.3 Centeniers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may

increase the need to prosecute but others may suggest that another course of action would be better. The following lists of some common public interest factors (both for and against prosecution) are not exhaustive. The factors which apply will depend on the facts in each case.

Some common public interest factors in favour of prosecution

5.4 The more serious the offence the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if -

- (a) a conviction is likely to result in a significant sentence;
- (b) a weapon was used or violence was threatened during the commission of the offence;
- (c) the offence was committed against a person serving the public (for example, a police officer, prison officer or a nurse);
- (d) the defendant was in a position of authority or trust;

- (e) the evidence shows that the defendant was a ringleader or an organiser of the offence;

- (f) there is evidence that the offence was premeditated;

- (g) there is evidence that the offence was carried out by a group;

- (h) the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance;

- (i) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, personal views or sexual preference;

- (j) there is a marked difference between the actual or mental ages of the defendant and the

victim or there is any element of corruption;

- (k) the defendant's previous convictions or cautions are relevant to the present offence;
- (l) the defendant is alleged to have committed the offence whilst under an order of the court;
- (m) there are grounds for believing that the offence is likely to be continued or repeated (for example, by a history of recurring conduct); or
- (n) the offence, although not serious in itself, is widespread.

Some common public interest factors against prosecution

5.5 a prosecution is less likely to be needed if:

- (a) the Court is likely to impose a very small or nominal penalty;
- (b) the offence was committed as a result of genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- (c) the loss or harm can be described as minor and was the result of a single incident (particularly if it was caused by a misjudgment);
- (d) there has been a long delay between the offence taking place and the date of the trial, unless -
- the offence is serious;
 - the delay has been caused in part by the defendant;
 - the offence has only recently come to light; or

- the complexity of the offence has meant that there has been a long investigation;
- (e) a prosecution is likely to have a very bad effect on the victim's physical or mental health (always bearing in mind the seriousness of the offence);
- (f) the defendant is elderly or is (or was at the time of the offence) suffering from significant mental or physical ill-health (unless the offence is serious or there is a real possibility that it may be repeated). Centeniers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill-health with the need to safeguard the general public;
- (g) the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation); or

- (h) details may be made public which could harm sources of information, international relations or national security.

5.6 Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Centeniers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

The relationship between the victim and the public interest

5.7 Centeniers act in the public interest and not just in the interests of any one individual. But, Centeniers must always think very carefully about the interests of the victim, which are an important factor when deciding where the public interest lies and, accordingly, whether a prosecution should be brought.

Young offenders

5.8 Centeniers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. The stigma of a conviction can cause very serious harm to the prospects of a young offender or a young adult. Young offenders can sometimes be dealt with at a Parish Hall Enquiry without the need for a Court appearance. However, Centeniers should not avoid prosecuting simply because of the defendant's age. The seriousness of the offence or the offender's past behaviour may make prosecution necessary.

6. Charges

6.1 Centeniers should select charges which -

- (a) reflect the seriousness of the offending;
- (b) give the Court adequate sentencing powers; and
- (c) enable the case to be presented in a clear and simple way.

This means that Centeniers may not always continue with the most serious charge where there is a choice. Further, Centeniers should not continue with more charges than are necessary.

6.2 Centeniers should never go ahead with more charges than are necessary simply to encourage a defendant to plead guilty to a few. In the same way they should never proceed with a more serious charge simply to encourage a defendant to plead guilty to a less serious one.

7. Accepting guilty pleas

7.1 Defendants may want to plead guilty to some, but not all, of the charges. Alternatively they may want to plead guilty to a different, possibly less serious, charge because they are admitting only part of the crime. Centeniers should only accept a defendant's plea if they think the Court is able to pass a sentence

which matches the seriousness of the offending. Centeniers must never accept a plea just because it is convenient.

8. **Power of the Attorney General to overrule a Centenier's decision**

8.1 Members of the public should be able to rely upon decisions taken by Centeniers. Normally, if a Centenier tells a person that there will not be a prosecution that is the end of the matter. However the Attorney General is the ultimate authority in respect of all prosecutions in the Island and has the power to overrule a Centenier's decision not to prosecute. In exercise of this power he may direct a Centenier to lay a charge. Where appropriate Centeniers should inform a person whom they have decided not to charge of this possibility.

8.2 Similarly the Attorney General may direct a Centenier not to proceed with a prosecution which has been commenced.

9. **Conclusion**

9.1 Centeniers form part of the Honorary Police. They are answerable to the Attorney General.

9.2 The Code for Centeniers is designed to make sure that everyone knows the principles which Centeniers apply when carrying out their work. Centeniers should take account of the principles of the Code when they are deciding whether to charge a defendant with an offence. By applying the same principles Centeniers are helping the criminal justice system to treat victims fairly and to prosecute defendants fairly and effectively.

9.3 The Code is issued by the Attorney General and is available from all Parish Halls and:

The Law Officers' Department

Morier House

St. Helier

Jersey. JE1 1DD.

9.4 It is also available at the States of Jersey Police Headquarters.

.....

H.M. Attorney General

10th January, 2000.

**GUIDANCE NOTES FOR CENTENIERS
AT PARISH HALL ENQUIRIES**

Preliminary

1. No person shall be warned to attend a Parish Hall Enquiry (“an Enquiry”) unless it reasonably appears to a Centenier or other police officer that an offence may have been committed.

2. Every person formally warned to attend at an Enquiry (hereinafter after to as “an Attendee”) shall at the Parish Hall be given an opportunity of seeing the information leaflet about Enquiries.
 - 2.01 Leaflets in English, French and Portuguese are to be available to Attendees.

3. The purpose of an Enquiry is for the Centenier to decide:
 - 3.01 whether there is sufficient evidence to justify a charge;

 - 3.02 if so, whether the public interest requires a prosecution or whether the matter can be dealt with in some other way at the Enquiry; and

 - 3.03 if the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

4. Enquiries are not held in public. The Centenier should at all times be accompanied during the Enquiry by another police officer.
 - 4.01 An Attendee is entitled to be accompanied by a lawyer should he so wish. It is a matter for the Centenier’s discretion what part the lawyer is allowed to play at the Enquiry. **The lawyer** is there primarily to advise his client.

- 4.02 A juvenile Attendee (ie those under 18) should, unless impracticable, be accompanied by a parent or guardian.
- 4.03 A mentally ill or mentally handicapped Attendee should be accompanied by a relative, guardian or other person responsible for his care or custody.
- 4.04 It is a matter for the discretion of the Centenier as to whether an Attendee may be accompanied by any other person.

Procedure at Parish Hall Enquiry

5. At the Enquiry the Centenier should introduce himself and explain the purpose of the Enquiry (as set out at paragraph 3. above). The Attendee should first be told in brief terms what is the offence alleged to have been committed. Where the Centenier is in any doubt as to whether the Attendee has a sufficient understanding of the English language, he should arrange for an official interpreter to be present.
6. The Centenier, who shall have read the report of the incident, shall consider such other material as he thinks fit including hearing from the Attendee. The Centenier will normally reach his decision based upon the police report and witness statements before him without the need to resort to the oral hearing of witnesses.
- 6.01 Having considered the material before him, the Centenier shall decide whether there is sufficient evidence to justify a prosecution or whether the Enquiry should be adjourned to allow further information to be gathered. In either case, should the Centenier ultimately conclude that there is not sufficient evidence to justify a prosecution, the Enquiry shall be ended and no further action taken against the Attendee.

- 6.02 In such cases, all records of the Enquiry shall show that there was insufficient evidence of an offence. The Centenier shall ensure that all records of the Enquiry are returned to Police Headquarters within 14 days from the date of the Enquiry.
7. If the Centenier concludes that there is sufficient evidence to justify a prosecution, he shall then go on to determine whether the public interest requires a prosecution or whether it would be appropriate for him to deal with the case outside the Court system. In reaching his conclusion both in relation to paragraph 6. and this paragraph the Centenier shall have regard to the guidelines issued by the Attorney General and contained in the *Code on the Decision to Prosecute.*
8. If the Centenier concludes that the public interest requires a prosecution he shall so inform the Attendee. The Centenier shall proceed to charge the Attendee and caution him (or caution him again if he has previously been cautioned) and warn him for Court on the first available date.
- 8.01 The Centenier should be mindful of the fact that anything said by the Attendee whilst not under caution is not admissible in evidence against him.
- 8.02 The Centenier should inform the Attendee of the availability of the Legal Aid Scheme and explain to him the procedure for obtaining Legal Aid if this is required.
- 8.03 Having charged the Attendee the Centenier should normally -
- 8.04 warn him for his attendance at Court; or
- 8.05 admit him to bail in such sum as the Centenier may reasonably determine pending his appearance at Court.

9. If the Attendee admits the offence(s) the Centenier should inform him that he is satisfied that there is a prima facie case sufficient to enable a prosecution to be brought and inform the Attendee of the offence(s) of which he is so satisfied. He should then inform the Attendee that he is nevertheless willing to deal with the matter at the Enquiry and ask him if he is prepared to be dealt with by the Centenier at the Enquiry.
- 9.01 If the Attendee indicates that he is prepared for the Centenier to deal with the matter the Centenier should state the possible options available to him and make clear to the Attendee that a record of a fine or written caution will be kept by the police and may be made available on a future occasion to a Court or a Parish Hall enquiry, although it will not amount to a "*conviction*".
10. If the Attendee does not admit the offence(s) the Centenier cannot proceed to deal with him or her at Parish Hall enquiry and the Centenier should normally take the matter before the Magistrate's Court.
11. If the Attendee admits the offence(s) he should do so in writing by signing a form supplied to him by the Centenier. He should then be asked whether he has anything to say by way of excusing the offence(s) after hearing which the Centenier shall determine the appropriate course of action.
12. The options open to a Centenier where he has decided to deal with the matter himself are to:
 - 12.01 impose a fine where a statute so enables him;
 - 12.02 issue a written caution;
 - 12.03 defer his decision (possibly in conjunction with voluntary probation);
 - 12.04 take no further action (although this may well involve words of advice, verbal caution, warning, etc.)

13. It is important that the Centenier should have regard to Attorney General's Directive 1/97 which spells out the consequences of the various options referred to above in terms of the records maintained at Police Headquarters. In the case of 12.03 the Attendee must be brought back to Parish Hall Enquiry at a later date. On that occasion, depending upon what has transpired in the meantime, the Centenier may decide to take the Attendee before the Magistrate's Court or to proceed by way of 12.02 or 12.04 of paragraph 12. above.

14. A Centenier must record in writing the reasons for a decision not to prosecute. This must make clear whether there is insufficient evidence or whether there is sufficient evidence but the public interest is in favour of the matter being dealt with at the Enquiry in one of the manners described in paragraph 12, rather than a prosecution. If the latter is the case the Centenier must record the reasons for the decision that it is not in the public interest to prosecute. The Centenier shall ensure that the written record is returned to Police Headquarters within 14 days from the date of the Enquiry.

Notes

- (a) A Centenier may, if asked to do so, give advice or counsel to any Parishioner or fellow citizen about domestic or other problems. In this respect a Centenier has neither more nor less right than any other person, although his or her position as Centenier will naturally lend authority to the advice given. Centeniers may give advice or counsel at the Parish Hall if persons choose to seek them out there or at any other time and place which may be convenient. Centeniers should never give the impression that in advising or counselling they are exercising a judicial function, neither should they purport to make a judgment binding on any person in matters brought to their attention. Centeniers have no civil jurisdiction.

- (b) A Centenier must bear in mind the importance of keeping the victim of an offence informed. Accordingly, it is the responsibility of the Centeniers'

Association, in conjunction with the States Police, to ensure that arrangements are in place to inform the victim of the outcome of a Parish Hall enquiry including, if the decision at the enquiry is not to charge the alleged offender, a brief statement of the grounds for the decision. This should be taken from the reasons recorded pursuant to paragraph 14 above.

.....
H.M. Attorney General

Ref: 205/3/3/5(1/97) MCB/AJB 10th January, 2000.

Principle Legislation

Lio (1853) Etablissant La Court Pour La Repression Des Moindres Delits

Loi (1864) Reglant La Procedure Criminale

Loi (1908) Au Sujet Des Tèmoins et Informateurs

The Magistrates Court (Miscellaneous Provisions) (Jersey) Law, 1949

Costs in Criminal Procedure (Connétables & Centeniers) (Jersey) Law 1996

Law Reform (Miscellaneous Provisions) (Jersey) Law 1978

Criminal Justice (Youth Offenders) (Jersey) Law 1994

Criminal Justice (Evidence & Procedure) (Jersey) Law 1998

Criminal Justice (Probation Orders) (Jersey) Law 2003

Indictable Offences Act 1848

Police Procedures and Criminal Evidence (Jersey) Law 2003

Human Rights (Jersey) Law 2000

Criminal Procedure (prescription of offences) (Jersey) Law 1999

Licensed Premises (Exclusion of certain persons) (Jersey) Law, 1998

Loi (1937) sur l'attenuation des peines et sur la mise en liberte surveille

Police Force (Jersey) Law 1974

APPENDIX (v)

Date	Time	Session no.	Content	Venue
24/10	19:00	1	<p>Parish Hall Enquiries</p> <ul style="list-style-type: none"> • Parish Hall Enquiry Functions • Preparation for Enquiries • Functions of other Officers at Enquiries • Caution / Fine • Charging to present in Court • Feedback on participants 	<p>St. Peter's Parish Hall</p> <p>2 ½ Hour duration</p>
1/11	19:00	2	<p>Charging at Police HQ</p> <ul style="list-style-type: none"> • Discussion on Charging at Police HQ • Bail or detain • Pitfalls <p>Introduction to Court Officials and functions</p> <ul style="list-style-type: none"> • Explanation of who Court Officials are • Explanation of their functions • Juvenile Court <p>Practice Session on Presentation</p> <ul style="list-style-type: none"> • Charge Sheets and presentation of facts • Bail Breach presentation • Presentation of reports 	<p>Magistrate's Court Seale Street</p> <p>2 Hour duration</p>
7/11	18:00	3	<p>Court Presentation with Legal Advisors as Magistrate</p> <ul style="list-style-type: none"> • Guilty Pleas • Not Guilty Pleas • Remands • Simple Trial with Witnesses 	<p>Magistrates Court Seale Street</p> <p>2 Hour Duration</p>
14/11	18:00	4	<p>Legal Advisors Presentation 1</p> <ul style="list-style-type: none"> • Bail Applications • Bail Breaches • Question time 	<p>Magistrates Court Seale Street</p> <p>2 Hour Duration</p>
21/11	18:00	5	<p>Legal Advisors Presentation 2</p> <ul style="list-style-type: none"> • Jurisdiction • Evidence • Question time 	<p>Magistrates Court Seale Street</p> <p>2 Hour Duration</p>
28/11	19:00	6	Juveniles	Magistrates

5/12	18:00	7	<ul style="list-style-type: none"> • Presentation from Probation Service • Presentation from Children's Service • Presentation from Youth Action Team • Question Time 	Court Street	Seale
			<ul style="list-style-type: none"> • Full Court to sit and hear mixture of cases • Defence Advocates to appear and act • Discussion and critique 	Magistrates Court Street	Seale
				2	Hour
				<i>Duration</i>	
				3	Hour
				<i>Duration</i>	

Centeniers Training Report

Specific training for Centeniers is currently being revised and expanded from the lecture/discussion type forum previously held with the Legal Advisors heading the sessions.

The first run of a more detailed training programme which covers all the basic aspects of Centeniering – Parish Hall Enquiry procedure, charging, bailing, pitfalls of charging at Police HQ and aspects of jurisdiction have all been incorporated as well as retaining the very beneficial sessions with both Robin Morris and Laurence O'Donnell.

A number of first term Centeniers have attended some or all of these sessions and very positive feedback has been received, notably from some of the more experienced Centeniers who have attended and participated. It is hoped to build on this experience and produce a more dynamic programme for 2006, which will include more involvement from experienced Centeniers who have expressed a willingness to participate.

A follow up course is being planned for 2006 and will recap on the basic content of the first course as well as covering some of the ideas in a deeper manner. This will be followed by an advanced course which still has to have its content agreed.

Assistance has been received from John De La Haye in setting the original course in place, and a member of the Training Team – Terry Renouf, has now completed a 3 day course on Training for Trainers, which will benefit the next series of planned courses.

If any Centenier wishes to make suggestions for future courses or would be willing to participate in one of the introduction courses, can they please let either Danny Scaife, Malcolm L'Amy or Terry Renouf know.

ST. PETER'S CASE WORK 2005

Charge	Totals	M. L'Amy	M. Tucker	R. Honeycombe	J. L'Amy
Speeding	92	24	20	27	21
Larceny	19	16	3		
Class A Drugs Importation	16	9	7		
D.I.C.	14	8	4	2	
No Motor Insurance	12	11	1		
Class B drugs Importation	12	8	4		
Motor Vehicle Construction and use	11	4	1	6	
Failing to report a RTC	9	9			
Breach	9	5	4		
Possession of Class B Drug	9	4	3	1	1
Aerodrome parking	6	6			
False pretences	6	6			
Driving without due care & attention	6	5	1		
No Driving license	6	4			2
Common Assault	6	3	2	1	
Parking offences	5	5			
Motor Vehicle Lighting Order	5	3		2	
Malicious Damage	5		5		
Grave & Criminal Assault	4	4			
Failing to wear a seat belt	4	2	2		
Taking and driving away	4	2	2		
Disorderly on License Premises	3	3			
Failing to obey a traffic sign	3	2		1	
Driving whilst disqualified	2	2			
Breach of the Peace	2	2			
Failing to change driving license	2	1	1		
Disqualified due to age	2	1	1		

A Brief History Of Policing In Jersey 1204 to 1974

Prior to 1204 law enforcement in Jersey existed through the powers vested in the Seigneurs of the various Fiefs in the Island with feudal courts being held as and when required.

It was in 1204 that King John withdrew from Normandy and from that time the power of the Seigneur gradually passed to the Connétables of the Parishes. What is not known however is when the office of Connétable came into being but in all probability it pre-dates the Norman period.

The first reference to a Connétable in local records is found in 1462 and the Centenier in 1502. Among the uncertainty of local records what is certain is that by the 16th century the Connétables were exercising police powers - including the right to search for stolen property in suspected premises and the Royal Commissioners ordinances of 1562 confirm that the duties of the Connétables and other parochial officers in connection with the criminal law were well established by that year.

In the early 19th century the Jersey system revolved around the Royal Court, an institution differing and far removed from that which exists today. With a weak Bailiff, and Jurats who were not averse to revealing their political beliefs - even when on the bench - public respect for the Court was not high and sittings on occasions degenerated into open violence.

It must be remembered that this court was the only court in the Island and every criminal or civil case, regardless of its triviality, had to come before the Royal Court. As one might expect there were often inordinate delays before a case could be dealt with.

In respect of the hearing of criminal cases, complainants gave evidence before the Inferior Number of the Court. A jury (Enditement) was summoned and this consisted of thirteen members of the Honorary Police from the parish in which the offence was committed. If the accused - upon being found guilty - did not accept the verdict he could demand the benefit of a second jury (Grande Enquete) the 24 members of which would be drawn from the parish in which the offence was committed and two adjoining parishes. A strange mode of trial indeed and one deficient in respect of fair justice.

By the 1840's the population of St. Helier was approximately 23,000 with no regular police system on the streets, no established Police Station and the assistance of the Honorary Police capable of being sought only from their homes or place of employment.

In an attempt to redress this failing a number of residents of certain streets and owners of business premises subscribed to the provision of day and night watchmen who, through their lack of legal authority, proved ineffective in the prevention of crime and disorder.

At this time the main difficulty in respect of the Honorary Police and the impartial discharge of their duties was the same as that which dogged the Courts - the intimate involvement of the Police in local politics - enabling them to influence unduly parochial elections. Even the level of the parish rates could be adjusted to determine the number and names of the electors thus ensuring that the dominant political faction in that parish could manoeuvre who they wished into positions of influence.

With the police being so closely politically involved the system almost inevitably and inexorably led to partiality and bias on the part of many officers in the performance of their duties and functions. It is of little surprise that many political factions were known as 'police' or 'anti-police'. Little wonder that dissatisfaction grew, not only among English residents but also

local residents the discontent being carried to the very corridors of the Houses of Parliament and attention becoming focused upon events in Jersey.

As a result of the concern felt at events in the Island an Order in Council dated May 1846 was signed appointing two Commissioners to *"enquire into the criminal laws now in force in the Channel Islands and into the constitutions and powers of the tribunals charged with the execution of such laws."*

The Commissioners were two English barristers who, although unfamiliar with the Jersey system chose to adopt a very balanced approach resisting as they did pressure from the extreme reforming party who wished the Island to adopt English law and be all but annexed. The Commissioners went about their task very carefully carrying out a very thorough investigation. A considerable number of written questions were sent to the Bailiff, Jurats and other notable members of the Island community. The replies being received later in the year.

In the meantime the States' had adopted an indignant stance to the appointment of the Commissioners, stating that the complaints were isolated and originated only from a few individuals and therefore did not represent the view of the majority of inhabitants.

Whilst the Commissioners heard evidence in Jersey during August/September, the reformists, in response to the attitude of the States, sent a 'memorial' with numerous signatures to the Home Office. This was returned to the Lieutenant Governor who decided against passing it on to the States lest the names it contained created hostile feelings when matters were already rather sensitive. Indeed the Commissioners' had already received complaints to the effect that the 'police' had threatened certain of the reformists in an attempt to encourage them to withdraw their complaints.

In July 1847, the first report of the Commissioners was presented to the States. Although some 280 pages in length what may be considered the most important of the recommendations contained in the document were:

The Honorary Police should be replaced by a paid police force for the whole island.

A criminal code be enacted by the States, defining offences on the basis of English law.

No member of the States should be a member of the Court.

Criminal procedures should be reformed to provide for trial by one jury only and for the hearing of witnesses before the jury.

Comprehensive changes indeed if they were implemented.

The main support for change came from within the Parish of St. Helier, the rural parishes remaining stoutly opposed to any form of change to the Island system of policing.

The Connétable of St. Helier at the time of the commission was Pierre Le Sueur, an Advocate of the Royal Court and Connétable since 1839. Le Sueur was considered by the Commissioners to be the most able representative of the party opposed to change, and yet, perhaps illustrating that he appreciated the dangers of refusing the Commission or Reformists any compromise he suggested three possible remedies to the storm that was so obviously brewing.

In the first instance Le Sueur suggested that improvements should be made to the rating law. Secondly he recommended the appointment of a Magistrate and finally that a paid 'night watch' should be introduced. Le Sueur recognised and accepted that there was a conflict of opinion in respect of the 'night watch' as the Commissioners had in mind the introduction of an island wide system of policing, but he strongly opposed that the criminal responsibilities

should be taken away from the Centeniers. Le Sueur's most forceful argument against any transfer of authority centred upon the potential cost. The substance of this contention was never tested.

In August 1847, one month after receiving the report, the States commenced their careful examination of its contents and - for some unexplained reason - immediately took steps to prepare a criminal code by issuing instructions to a committee, previously formed for that purpose, to prepare the code in draft form.

With admirable expediency the Law was prepared and, in September 1848, was passed by the States and sent to London for sanction. There followed a peculiar series of events during which the Law passed back and forth for various amendments until November 1851 when, having received the Royal Assent, it was finally lodged 'Au Greffe' prior to ratification. The Law never appeared again.

It is relatively obvious that the recommendations of the Commissioners were not welcomed by the States. As early as November, 1847, the Home Office, through the Lieutenant Governor, enquired of the States what action they intended to take in respect of putting into effect the commissioners recommendations. The States, in reply, pointed to their efforts in preparing the ill-fated criminal code previously referred to. They pointedly made no mention of any intentions to put into effect the other recommendations which included the forming of an all island paid police force.

The situation remained static for some time until a question was raised in the House of Commons in relation to a similar Commission of Enquiry into the legal system of the Isle of Man. The Home Secretary cited the Jersey commission as not being encouraging to support a similar move elsewhere. The inactivity had obviously not gone unnoticed.

With the situation as it was rumours were bound to ferment. One such which gave rise to a considerable degree of alarm to certain of the States members was that an "Order in Council" was being prepared supporting the Commissioners recommendations in respect of a revision of the Royal Court, the hub of the Island system.

As it happened this rumour was not entirely without foundation for the Home Office, through the Lieutenant Governor, had instructed the Jersey Law Officers to prepare a draft "Order in Council" to carry out the Commissioners recommendations. The draft document, which was sent to the Lieutenant Governor in December 1848, related to the replacing of the Bailiff and Jurats in the Royal Court with three paid judges and the creation of a Police Magistrates Court.

This move escalated the entire issue to a level which the States could not possibly ignore. It was now a constitutional issue. Could the Crown impose such changes on the Island by an "Order in Council" made without the concurrence of the States in circumstances where the States were unwilling to make those changes. The constitutional rights of the Island were being bluntly challenged.

Quite simply, it was not the right of Parliament being claimed to legislate for Jersey, but for the Crown to do so without the concurrence of the States or referral to Parliament where friends in the latter at least offered a modicum of protection to the Island. With the Crown having sole power of legislation even that tenuous protection was gone.

The Lieutenant Governor, without doubt anticipating the gathering storm clouds privately approached the Bailiff intimating that, on a personal basis, he was not in favour of introducing paid judges in the Royal Court. He did however consider that there was an urgent need for a Police Court and for a night watch in the town. He went on to suggest that the Bailiff should propose some changes for the better which would appease the Home Office who were obviously concerned at the lack of activity on the part of the local authorities.

The Bailiff responded with a number of suggestions which included the establishing of a Police Court, the enacting of a criminal code and the introduction of a Night Police in St. Helier with a police station open 24 hours per day.

In dispatching the Bailiffs letters of recommendation to the Home Office a breathing space was secured in that if the measures suggested by the Bailiff were adopted the reform of the Royal Court would, for the time being, be left in abeyance. Despite this opportunity for the States to compromise their way out their predicament, another two years were allowed to pass without any further activity apart from the abortive and ill-fated criminal code.

5 Reform Continues

The local reformists, perhaps expecting no better from the system they were trying to change, continued to herald their cause. In November 1850 one of their many meetings took place in St. Helier presided over by Philip Lempriere, Seigneur of Rozel, the purpose of which was to call upon the States, by way of a petition, to take more effective measures to protect life and property.

One of the most interesting aspects of the meeting concerned a debate on the issue of the effectiveness of the Night Watch. It was a common belief that they were insufficient to meet with the demands made upon them. A synopsis of occurrences giving cause for concern are worth recounting in that they identify the most pertinent policing problems of the day.

Will a Night Watch,

Prevent shameful and disgraceful scenes that occur on the pier on the arrival on the steamers of numerous people impressing them with fears for their safety?

Prevent the petty thefts, disorders and confusion that prevail every day in the public markets?

Prevent the various robberies perpetrated during the day - a common occurrence.

Prevent the danger to which pedestrians are every day subjected by men driving carts without reins, at rapid rate down narrow streets of the town and through country lanes as a result of which accidents occur?

Prevent desecration of the Sabbath by stopping revolting scenes of drunkenness and fights in the streets of St. Helier, also the assemblage of a number of boys during divine service, fighting dogs, blasphemous language and traversing the countryside with fowling pieces to the dismay of the public?

Reading this catalogue of disorder it is hard indeed to understand at that time the opposition to a uniformed police.

In 1851 the Governor, despairing at the lack of activity by the States despite their many promises, wrote to the Home Secretary expressing his doubts that the Island system of policing would change unless the British Government intervened with an "Order in Council". The Home Secretary instructed that the Law Officers prepare a draft "Order in Council" to establish a Police Court and a Police Force for St. Helier. The "Order" was received by the Governor in January 1852.

Prior to forwarding the Order to the Bailiff to be registered by the Royal Court the Governor underwent a change of heart and urged delay. This change of heart was apparently a direct result of the Bailiff having warned the Governor that presentation of the Order would cause turmoil within the Island and a short postponement was agreed to allow the Bailiff time to prepare his objections to the Order.

Eventual presentation of the Order to the Royal court resulted in its referral to the States where, following a most violent debate, registration was suspended and preparations made for formal protest to be made to the British Government.

Of considerable significance were the divisions which appeared within the States. Reality seemed to have dawned upon some members that if they were to escape the dictates of the Order in Council they must offer something in return. An opportunity they had let slip on at least two previous occasions.

In August 1852 the States passed a number of Acts which included provision for a Police Court and the formation of a uniformed police for St. Helier. Even then there were significant differences between the recommendations contained in the report of the Commissioners and the Order in Council on the one hand and the Acts passed by the States, intent on resisting to the end the changes which threatened the *'political police system'* which had been guarded so effectively for centuries.

The Order in Council clearly stated that the Lieutenant Governor was to appoint and control an all Island Police Force comprising of a Superintendent and 22 men who were to operate totally independent of the honorary system.

The Acts of the States however allowed for only ten men to be appointed by a committee of the States and acting under the instruction of the Constable of St. Helier. They were in fact to function only as a night watch in the town.

There followed a period of argument and counter argument between the British and Jersey authorities which unfortunately departed from the actual points at issue and centred more upon whether the Crown could legislate for Jersey without the agreement of the States. Eventually it was accepted that although the States Acts did not carry the initial intent of the Order to full effect they did contain an element of the Order which could subsequently be built upon to the benefit of the Island.

Neither side had in fact prevailed. The stubbornness of the political-police antagonists had brought the Island to what amounted to a constitutional crisis over what was simply the right of the public to a fair system of justice and an efficient Police Force. The dangers of having a police system so closely embroiled in politics had almost had far reaching changes forced upon the Island's constitution.

The unfortunate result of the 'climb down' by the Home Office was that the prime aim of the Commissioners - to sever the police/political connection - had not materialised. An issue destined to haunt the professional police service well into the 20th century.

The St. Helier Paid Police finally appeared on the streets of St. Helier in January, 1854, tasked to patrol the town between the hours of 6p.m. and 2a.m. As a result they became known as the night watch or "garde de nuit". Although uniformed on similar lines to United Kingdom officers there the similarity ended for they were restricted to the powers of Constables Officers and were entirely dependent upon the specific authority of Centeniers in matters of arrest and search. A situation which was to remain unchanged for 120 years.

It is not the purpose of this document to chronicle the activities of the Paid Police but it must be said that they encountered all of the problems of general policing without many of the powers or freedom of action which their duties often demanded. Not infrequently criticism was levelled at the officers, usually when comparisons were drawn between them and their United Kingdom counterparts. It was, however, seldom recalled that they functioned under quite different terms of reference and were subordinate to the Honorary Police the latter readily assuming the mantle of authority but displaying extreme reluctance to take responsibility for issues which did not meet with public approval.

Slowly however, the presence of the Paid Police came to be felt among the less law abiding members of the community as they came to play a more central part in policing the town and, on occasions, responded to requests for assistance from the country parishes.

It should be recalled that until the latter part of 19th century the officers also acted as volunteer firemen and, in the early 1940's, also as ambulance men.

In 1909 an attempt was made to place the St. Helier Paid Police on a more professional footing and to enhance their status by appointing a 'Chief Officer' with the powers and authority of a Centenier.

The proposition was, surprisingly to many, unanimously supported by the then Connétable of St. Helier and the members of his Honorary Police. This support was no doubt in no small measure due to the close relationship which had been developed between the two forces while working so closely together for so many years.

The proposition was strongly and successfully opposed by the rural bloc in the States who were of the opinion that such a move would undermine the honorary system of policing and parochial administration. (*The ghosts of the Royal Commission were still around.*) By 1914 the Force consisted of 21 officers.

The vexed question of the relationship between the Honorary and Paid Police would not go away and, in 1934, the Defence Committee of the day sought to define the legal position of the Paid Police and, hopefully, to extend the scope of their duties. To this end another commission was arranged with three primary questions to answer:

Whether police experts could be placed at the disposal of the Honorary Police.

Examine whether it was expedient to retain the fundamental principle of the honorary system of policing.

Present a recommendation for re-organising the Paid Police to ensure that they could operate in accordance with the policing needs of the Island.

The Commissioners concluded that the Paid Police were in need of additional powers enabling them to operate in other parishes. The Commissioners acknowledge that such a move would make it difficult for the Connétable of St. Helier to retain his existing control over the Paid Police. Particularly in the event of conflict with other Connétables.

Further reasons to move the Paid Police away from the control of the Parishes was identified as the increasing responsibility which the States were assuming for customs procedures, dangerous drugs and road traffic all of which had policing implications. It was therefore the opinion of the Commissioners that the States should have full responsibility for policing these and many other matters.

The aim of the Commissioners was to introduce a more flexible and professional police system, retaining the honorary principle and the authority of the Connétables in their parishes. They recommended that the Connétable of St. Helier should relinquish his powers over the Paid Police and that the States should have responsibility for "all insular purposes foreseen and expected".

However the Commissioners were at pains to recommend that responsibility for the investigation and prosecution in criminal matters should continue to be exercised by the Attorney General and the Honorary Police who could call upon the professional help of the Paid Police as and when necessary.

As a consequence of these recommendations in 1935 the States adopted the principle of a professional police force operating on an island wide basis. The controversy which this generated resulted in the necessary legislation being delayed and it was not introduced until some three years later in 1938. Although the preamble to the Bill was accepted the Bill itself was rejected by the States due in the main to opposition from the rural members.

The Commissioners had placed considerable emphasis on the need to increase the efficiency of the police system, but had made no attempt to question the basic doctrine of the Honorary Police. It existed at parish level with the same close relationship between the judiciary, executive and legislature which had characterised relations between the Royal Court and the States at the time of the 1846 Royal Commission.

In the minds of many of its members the concept of Honorary Policing reflected the fine principles of self-help and the notion that many parish problems could be dealt with informally and personally and did not require the intrusion of the perceived more impersonal uniformed police and the Courts.

One inevitable consequence of such a system, as identified by the Commissioners, was the belief among many of the citizens that such an informal approach, allied to a great deal of discretion in procedures, often resulted in bias in its dealings, with emphasis centring more upon a person's reputation and standing, which could vary from parish to parish, rather than any proof of innocence or guilt.

The activities of the St. Helier Paid Police during the occupation years 1940 -1945 are unique and worthy of a reference work of their own. Organisation wise the Force remained static cut off from any developments in policing and policing practices until the Liberation in 1945.

With the period of occupation and subsequent liberation behind them islanders got down to what was for many a new way of life and, in 1947, the Attorney General wrote to the Defence Committee expressing his concern at what he considered the inadequacy of the police organisation to cope with the level of crime prevalent in the Island.

Around that time Superintendent Mahon of New Scotland Yard and Mr. Colin Firth (a forensic scientist) were in the island investigating a series of deliberately set fires which had occurred in a number of business premises in and around the town area. The Superintendent was invited to examine and report upon policing within the Island as a result of a confidential paper submitted by Mr. Firth to the Defence Committee. In his confidential report Superintendent Mahon was most critical of the system of policing and its lack of efficiency. The Paid Police now numbered fifty in total.

In 1950 Sir Alexander Maxwell GCB, KBE (former Permanent Under Secretary) and Mr. F.T. Tarry CBE (HM Inspector of Constabulary) were invited by the States to look at the system of policing and to submit their views and recommendations. Little had changed since the Commission of 1934 and Maxwell and Tarry soon found that the same flaws existed.

In brief their recommendations were that the honorary police should be supplemented by the professional services of the Paid Police to assist in crime prevention and detective work and that the Paid Police should have the same powers in all parishes. They went on to say that a full time Chief Officer of Police responsible for training and technical aids should be appointed. The new force should also be provided with a Headquarters premises away from the St. Helier Town Hall. The report was extensive and resulted in the Paid Police Force (Jersey) law, 1951, being passed and the Jersey Paid Police becoming available on an island-wide basis.

The years which followed the Maxwell-Tarry report were important ones for the Force with many of the recommendations being adopted including the appointment of a Chief Officer. Under the guidance of their new Chief Officer the Force began to take on a more professional role, the relationship with the Honorary Police still remained a tolerated one with the Paid

Police remaining subordinate to their honorary colleagues. The Defence Committee still only had responsibility for administering the Force in matters of organisation, training and discipline.

The continuing increase in calls upon the Force for assistance with a widening range of offences and incidents called for a further assessment of the situation and the status of the Paid Police. As a result in 1958 Mr. Tarry was invited to return to Jersey to carry out an informal inspection of the Force.

Mr. Tarry and his assistant Superintendent J.W.Kennedy found little to criticise in the organisation, training and knowledge of the Paid Police but felt that in general terms the Island was not receiving the level or standard of service it deserved particularly when compared to the United Kingdom.

These comments were based, at least in part, on the inadequate strength of the Paid Police Force and also on the fact that, in their view, *"the efficiency and status of the Force could not be expected to reach its full potential so long as the members of the Force remained in a subordinate position to the honorary Police - did not possess the power to arrest - and did not hold the full initiative and responsibility in the investigation of crime"*

These comments prompted the question of whether the traditional system of Honorary Policing was able to cope with the Island wide increase in policing matters. The time was not, however, considered appropriate to pursue this controversial issue.

One of Mr. Tarry's recommendations was that the name of the Force should be changed to reflect its island wide responsibilities. As a result of this recommendation in 1960 the Jersey Paid Police Force became "The States of Jersey Police Force."

It was not until 1974 however that following an inspection and report by Mr. R.G.Fenwick QPM one of Her Majesty's Inspectors of Constabulary the States passed the Police Force (Jersey) Law, 1974 giving members of the Force the power to arrest offenders and suspected offenders and the ability to go about their duties without regard to parish boundaries.

Finally the recommendations of the 1846 Royal Commission in respect of an island wide Police Force became a reality - almost 130 years later.

Policing in Jersey does not centre solely upon the honorary and professional forces and any document addressing the history of policing would be incomplete if it failed to address the valuable contribution provided by both 'Special Constables' and 'Auxiliary Police Constables' at various times in Island history.

SERMENT DES CENTENIERS (Revised)

Vous jurez et promettez, par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge et l'office de Centenier en la Paroisse de; vous garderez et ferez garder la paix de Sa Majesté, vous opposant à, et saisissant de fait, tous ceux qui tentent ou commettent toute façon de crime, de délit ou de contravention, dont vous informerez le Connétable, afin qu'ils soient présentés en Justice pour être punis selon leurs méfaits, vous conformant en ceci aux instructions de Monsieur le Procureur Général de la Reine; vous conserverez et procurerez, autant qu'il vous sera possible, les droits qui appartiennent à ladite Paroisse, vous réglant en ce qui concerne le bien public d'icelle, par l'avis et le bon conseil des Principaux, du Connétable et des autres Officiers de ladite Paroisse; vous assisterez le Connétable à assembler lesdits Officiers régulièrement, et les assemblerez vous-même lorsqu'il vous en réquerra pour aviser aux choses dont il sera besoin concernant ladite Paroisse; vous exécuterez les mandements de Monsieur le Lieutenant Gouverneur, de Monsieur le Bailli, de Monsieur son Député et des Juges et Jurés-Justiciers de la Cour Royale en ce qui sera de leur charge respectivement; et de tout ce, promettez faire votre loyal devoir, sur votre conscience.

Oath of a Centenier

You swear and promise before God that you will well and faithfully discharge the duties of Centenier of the Parish of, that you will keep and help keep Her Majesty's Peace, that you will oppose and arrest all rogues, mutineers, thieves, murderers and all other persons who interrupt the public peace, and that you will inform the Constable of these, so that they can be presented before Court to be punished according to their misdemeanours; as well as all drunkards, lewd persons, prostitutes, blasphemers and everyone who contravenes the regulations and commands of the Bailiff, which regulations you will yourself keep and help to keep as far as you are able. You will watch that no Inn in your Parish is run by persons not licensed to do so; and take special care to ensure that Sundays are not profaned by any frequenting of Inns or other places contrary to the regulations made concerning this, which regulations it is your duty to execute. You will help the Constable of the parish to search, every time it is necessary and when he asks you to do so, and in particular once every three months, all places and houses in your parish which are suspect; you will protect and advance as much is possible the rights of your parish, guiding yourself in matters which concern the common good of the parish, by the advice and counsel of the principals, the Constable and other officers of the said parish; you will assist the Constable in calling an assembly of these officers once a month, and call an assembly yourself when necessary, to advise about things concerning the parish and so that they can bring forward all wrong doers, insubordinates and those who disobey the orders of the Court, so that the Court and Officers of the Queen can be informed. You will discharge the orders of the Lieutenant-Governor, the Bailiff and the officers of Justice and you swear that you will do your loyal duty concerning all these things.

From: Malcolm P. L'Amy [malk2@jerseymail.co.uk]
Sent: 27 May 2006 14:13
To: 'Bob Hill'; malk2@jerseymail.co.uk; 'Geoffrey Cornwall';
geoff.cornwall@notary.je
Cc: 'Sue De Gruchy'; 'Charlie Ahier'; 'William Millow'; 'Deidre Mezbourian';
'William Bailhache'
Subject: RE: Social Affairs Scrutiny Panel- Review into the Role of Centeniers at
Magistrates Court.
Good afternoon Bob,

Thank you for reverting back to me so quickly. I am sure Geoff will supply you with the material requested to help you in the interim period, but most, if not all of the laws and guidance notes from the AG are contained in the document. When writing to you yesterday, but for some reason my primary email address is failing to send or receive at present, I had completed 54 pages, this is now up to 66 and still growing.

Because Jean and I are on holiday from Monday until the 7th of June, I will be chaining her to her computer screen to correct the obvious typing errors that comes when speed of brain overtakes speed of three fingers. I wish to send a draft copy either before I leave Monday morning or late Monday evening when I arrive at the hotel to the Chefs Connétables and AG.

My fellow Centenier that have been working on this have all fallen away through family situations beyond their, or my, control.

I am sure you will find the document of interest and that it will be of pivotal importance to the written evidence given. It would have assisted us greatly if your committee had stayed with its original intention to work on this project in September. This would have given us the time to provide a 200 page document.

Once the document has been seen by the various groups previously mentioned, I will have forwarded to you a hard copy. Although I am taking 10 days away from the Island on holiday, I will have with me both my laptop, with internet connections and cell phone, as I view this document and your panels review of the Centeniers Role of the up most priority and will continue to work on producing a final version which every Centenier can be proud of.

You have my telephone numbers should there be anything I can help you or your panel with whilst I am out of the Island.

Regards from Jean.

Malcolm

From: Bob Hill [mailto:B.Hill@gov.je]
Sent: 27 May 2006 13:38
To: malk2@jerseymail.co.uk; Geoffrey Cornwall; geoff.cornwall@notary.je
Cc: Sue De Gruchy; Charlie Ahier; William Millow; Deidre Mezbourian; William Bailhache;
Malcolm L'amy
Subject: RE: Social Affairs Scrutiny Panel- Review into the Role of Centeniers at Magistrates
Court.

Dear Malcolm,
Many thanks for your email. As you can see from my message below, we too have a considerable amount of work to do before we actually get to the Hearing stage of our Review. When we call for witnesses, submissions, etc we always give a desired date otherwise we could be receiving submissions right up to the reporting stage of the Review. As a matter of

good practice we are flexible and be assured that whilst it would be desirable to have your submission by our desired date, we are prepared to wait for it for two reasons. One is because your submission will be one of the key ones. Secondly you have advised us that you have not completed your report and we have already said that we will wait for it. Please do not spoil Jean and your weekend by putting it together by the 30th.

As mentioned in my email to Geoff which followed a discussion with him, to help us on our way, it would be helpful to have whatever documentation you have as to, the Law, Regulations, Guidelines or whatever. It takes a time to collate and read the documentation and it would be helpful if we had that to get on with.

Whilst your report is being compiled and circulated we will be making arrangements to visit the Magistrates Court, Parish Halls, the Probation Service and other Bodies. We will be contacting Chefs de Police with the view to assisting us with our visits to the Parish Honorary Police.

Regards
Bob
Telephone: 861019
Email: b.hill@gov.je

-----Original Message-----

From: malk2@jerseymail.co.uk [mailto:malk2@jerseymail.co.uk]
Sent: 27 May 2006 13:01
To: Bob Hill; 'Geoffrey Cornwall'; geoff.cornwall@notary.je
Cc: Sue De Gruchy; Charlie Ahier; William Millow; Deidre Mezbourian; William Bailhache; malk2@jerseymail.co.uk; Malcolm L'amy
Subject: RE: Social Affairs Scrutiny Panel- Review into the Role of Centeniers at Magistrates Court.

Dear All,

I am resending the below email as I have heard from two recipients that they have not received the email below from yesterday. You may receive this message twice.

Malcolm P. L'Amy

Dear Bob,

Thank you for copying me in on your email to Centenier Geoff Cornwell. It may be that you and your panel are unaware, that after months of trying to arrange, I visited last week Nottinghamshire Police and Crown Prosecution Service. The purpose of the visit was twofold; one was to report back to my fellow Centeniers how the CPS works and to produce our own review of the position of the Centeniers in the Criminal Justice System of Jersey, and two, which was a supplementary to the original project, to submit a report to the Scrutiny Panel.

I have for the last two weeks been not only fact finding in the UK, which I must add is at present self financed, but also adding to my finding by including such items of documentation you mention in your email to Centenier Geoff Cornwell. The work and effort that has been put in to-date is extensive, unfortunately during the long hours of compiling this report I am not earning any monies, but have undertaken this work, along with fellow Centeniers because we believe passionately about the Honorary Police and the system we currently have.

I would hate to think that this work will be dismissed, because I have missed a limited deadline for the Scrutiny Panel. At present I am amending and correcting along with my wife, who is also a Centenier, to clear the typing and grammatical errors prior to it be sent to the Comite des Chefs and then the Comite des Connétables. Until both groups have seen the report, of which the titular head of the Honorary Police, the Attorney General, will also see, it

is not at this stage possible for me to speed up the process and submit a copy to you over the weekend.

I would therefore ask that your panel wait until the report, which at present is 54 pages in length, has been seen by the above groups. The report details the various laws governing the powers of the Connétables and the Centeniers both to charge, bail and present cases in court. It also includes the Attorney General's guidelines to Centeniers and other relevant material.

I look forward to your early reply.

Yours sincerely,

Malcolm P. L'Amy
Chef de Police St. Peter
01534 483554
07797 712 737

From: Bob Hill [mailto:B.Hill@gov.je]
Sent: 26 May 2006 09:53
To: Geoffrey Cornwall
Cc: Sue De Gruchy; malk@itl.net; Charlie Ahier; William Millow; Deidre Mezbourian
Subject: Social Affairs Scrutiny Panel- Review into the Role of Centeniers at Magistrates Court.

If this e-mail has been sent in error, please notify us immediately and delete this document. Please note the legal disclaimer which appears at the end of this message.

Dear Geoff,

With reference to the above review. You will note that in my response to Centenier Le Sueur I said that as we had a considerable amount of work in relation to our review, we felt we could not defer our review until after you had completed the work you have undertaken in this area. As part of our review we need to establish by what authority the Centeniers carry out their tasks etc. It may well be that there has been a general acceptance that they do so because they were carrying out that function before the establishment of the States Police. However that possibility must be established.

From my previous discussions with you, you have said that the Honorary Police has been issued with various Guidelines and Instructions from the Attorney General. I would be grateful if you could forward those and whatever other documentation you have and feel would be of assistance with our review.

Please could you forward the documentation to our Scrutiny Officers, Charlie Ahier and William Millow at the Scrutiny Office at Morier House.

Regards
Bob
Telephone: 861019
Email: b.hill@gov.je

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