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# THE CONDUCT AND EFFECTIVENESS OF PARISH HALL ENQUIRIES

Report presented to the Jersey Probation and After Care Service and the  
“Building a Safer Society Strategy”

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September 2005

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The views expressed in this report are those of the authors, not necessarily those of the Steering Group nor do they reflect States of Jersey Policy.

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**The work we do for ourselves follows us to the grave. The work we do for our community lives on forever - President Theodore Roosevelt**

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<b>Acknowledgements</b>	<b>2</b>
<b>Contents</b>	<b>4</b>
<b>Executive Summary</b>	<b>5</b>
<b>Introduction</b>	<b>18</b>
<b>Part I – Origins and Contexts</b>	
1. Origins of the Honorary System	22
2. The Honorary Police	26
3. The Operation of the Hybrid Model of Policing in Jersey	42
4. The Parish Hall Enquiry	54
<b>Part II – Evaluation of the Parish Hall Enquiry today</b>	
5. Research Methods	59
6. The Role of the Centenier	61
7. Other Key Players in the Parish Hall Enquiry System	75
8. The Observational Study: process and compliance	81
9. The Observational study: components of effective practice in community-based justice	89
10. Victim Offender Mediation and Restorative Justice	113
11. Comparable Institutions in other jurisdictions	131
12. Parish Hall Enquiry statistics	139
<b>Part III – Conclusions</b>	
13. Conclusions	146
14. The Future of the Parish Hall System	153
<b>Part IV – Appendices</b>	<b>156</b>
<b>References</b>	<b>196</b>

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## **EXECUTIVE SUMMARY**

### **Origins and context of the honorary system and the Parish Hall Enquiry**

Honorary service in Jersey has its origins in a feudal system of social organisation underpinned by the existence of the 'fief'. The twelve parish structure became established in the 12<sup>th</sup> century, possibly earlier. Each parish provided a framework for ecclesiastical, civil and military organisation. Despite the small geographical area of the island, from a cultural perspective, rather than becoming a single island-wide community, Jersey developed unusually, as an island comprising twelve separate "bubbles of governance" (Shearing, 2001) each having considerable discretion to shape and control events that took place within parish boundaries. The role of the parish as the primary unit of social organisation in Jersey is of vital importance. The twelve parishes have an internal structure designed to promote good stewardship. Most positions are honorary and office holders are elected by the rate-payers of the respective parish. In other jurisdictions all of these services would be provided by the state via paid functionaries.

The existence of the parish as a separate entity, independent of Island central control is important to understanding the social and political circumstances which have allowed the systems of Honorary service to prevail into modernity.

### **The Honorary Police**

The development of parish policing is likely to have its origins in the form of community organisation established in the medieval period. The parish was responsible for forming a body of men to pursue wrongdoers, keep watch at night, and guard prisoners in custody and to ensure that suspects seeking refuge in the parish churches did not escape.

The system of policing within the parishes has changed little since its establishment by the French Kings in early times. Under the general supervision of the Attorney General, honorary officers provide an effective and powerful network of local knowledge that criss-crosses the Island. Authority is derived from the oath of office, sworn before the Royal Court. The powers afforded to the Honorary Police are predominantly customary in origin. Within the boundaries of their own parish the Connétable and the Centenier have the power of arrest and the right of entry to any premises, without warrant, to search for stolen property or prevent a breach of the peace.<sup>1</sup>

Imperceptibly, the existence of an unpaid body of parishioners pervades community life, helping to maintain peace and social order across the island. This notion of

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<sup>1</sup> This Customary Power Was Abolished In December 2004 Following The Enactment Of The Police Procedures And Criminal Evidence (Jersey) Law 2003

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unremitting watch figured largely in Peel's creation of a paid police body in London in 1829.

### *The Office of Connétable*

The Connétable is the principal officer of the respective parish and the head of the Honorary Police.<sup>2</sup> In addition to the policing and administrative functions, the Connétable represents the Parish in the States Assembly. A Connétable is elected by parishioners to serve a three-year term of office.

The precise origins of the office are unknown and there is speculation from numerous sources. The title Connétable does not appear in records as a parish official until 1462 (De Gruchy 1957), although it is likely that the role was well established by this time.

### *The Office of Centenier*

The Connétables are assisted by Centeniers; also elected by parishioners to serve a three-year term. Either retired from, or following another occupation, the Centenier acts in a voluntary, unpaid capacity, primarily performing duties associated with Parish Hall Enquiries and prosecution.

The first references in official Jersey records exist as early as 1502 (De Gruchy 1957, Bois 1970). Guizot however raises the possibility of a much earlier incarnation of the role. Citing the title of the "Capitulaire de Louis Le Debonnaire" he notes the existence of the office of Centenier in France in 819.

In the absence of any island-wide system of policing, the maintenance of peace and social order in the parish and the investigation of crime fell squarely on the shoulders of the Centenier who occupied a pivotal role in the parish. The powers vested in the Centenier are customary, conferred via the oath of office, administered by the Royal Court as specified in the Code de 1771. The oath empowered the Centenier to seek out and control wrongdoers in order to prevent breaches of the peace arising principally from the over-consumption of alcohol. The States Committee charged with the creation of new legislation have recently revised the oath to reflect the modern context in which the contemporary Centenier operates.

### *The Office of Vingtenier*

Junior in rank to the Centenier, the Vingtenier was charged with the administration of a vingtaine, a sub-division of the parish for fiscal purposes. (In the parish of St Ouen, these sub-divisions are known as cueillettes). The Vingteniers assist the Centeniers by recording proceedings at Parish Hall Enquiry.

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<sup>2</sup> Legislation has been lodged to delegate this duty to the Chef de Police of the Parish.

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### *The Office of Constables Officer*

The Officier de Connétable (CO) is the most junior rank of the Honorary Police. The principal role is to assist the Centenier with the routine administration and policing of the parish including road closures for weddings, funerals and fetes.

### **The Hybrid Model of Policing In Jersey**

The system of policing in Jersey is very unusual and probably unique. It is unlikely that the social and political conditions that assisted its evolution would have existed elsewhere. In effect, the Island has thirteen independent police forces co-existing within an area of forty-five square miles; each one having a separate chain of command. This unique phenomenon provides significant challenges to operational organisation.

In most other modern states, the state police act as the gate-keepers to the Criminal Justice system. Their role is principally to detect crime, investigate offences and present offenders before an independent Court which will decide guilt or innocence and deliver punishment accordingly. State police organisations also have a role in crime prevention. The policing model in Jersey provides for the Honorary Police to perform some of these functions conjointly with the States' Police and some as the sole provider.

The level of community involvement in policing is higher in Jersey than most other jurisdictions. Police involvement in the community also differs from other areas in that it is controlled both centrally via the state and locally via the parishes. In other jurisdictions it is possible to pinpoint the 'centre' of policing. In Jersey it is impossible to locate because it is decentralised thirteen times. Neither the state, nor the parish, exercise complete control over the provision of policing.

All honorary officers have the power of arrest within parish boundaries. At an operational level, if an Honorary Officer has cause to believe that a 'prescribed offence' has been, or is about to be committed, the officer is obliged by law to request the assistance of the States' Police.

Many of the tasks performed by the Honorary Police serve to improve the quality of life for the parishioners; they are conducted out of concern and respect of parishioners and contribute greatly to the social cohesion of the parish. In other jurisdictions, the state police have neither the time, nor the resources to deal with many minor incidents.

The capacity for parish people to deal with parish problems at parish level ensures that social control is not ceded to the state. Familiarity in this sense does not breed contempt; it fosters a level of social control that is a vital element of any strategy that aims to build safer communities.



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### *The Memorandum of Understanding*

The parish structure decentralizes power and imposing uniformity and centralised systems is difficult. This can have the effect of frustrating policy-making. The Memorandum of Understanding is seen to be a positive step towards better communication and consensus between the two police forces.

The Memorandum elicits a workable agreement that seeks to preserve the unique nature of the Honorary Police whilst ensuring the provision of an effective policing solution across the island.

### *Accountability*

The Honorary Police model is one of paternalism with the Connétables acting in what is understood to be in the best interest of the parishioners. Their organisational norms are informal and not prescribed by written rules and regulations. Honorary Police 'belong' to the parishioners and as long as they continue to be elected and the Attorney General agrees their appointment, their tenure is guaranteed. The States Police operate under the direct control of the Home Affairs Committee. Their powers are based on statutory law and there are organisation and operational expectations relating to patterns and conditions of employment and performance management. Officers are professional and specialised.

### **Evaluation of the Parish Hall Enquiry Today**

Parish Hall Enquiry refers to the process of preliminary investigation conducted by a Centenier to ascertain whether there is sufficient evidence to suggest that an offence has been committed and whether or not it is in the public interest to prosecute the alleged offender for that offence. In all but the most serious offences<sup>3</sup>, offenders will be invited to attend at a Parish Hall Enquiry to have the circumstances of the offences reviewed by the Centenier. The Parish Hall Enquiry has no legal definition and it is *not* a Court. Enquiries are usually held in the evening, attendance is voluntary and the attendee can at any time request that the case be heard before the Magistrate. If a person warned to attend at Parish Hall Enquiry does not attend, the Centenier may choose to issue a summons to appear before the Magistrate

The Home Affairs Committee makes the following policy statement regarding Parish Hall Enquiries:

The Committee supports their status [Parish Hall Enquiries] as an investigatory rather than a judicial body (Criminal Justice Policy Consultation Document 2005:62).

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<sup>3</sup> For example: serious offences of violence, drug importation and supply

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### *The Role of the Centenier at Parish Hall Enquiry*

The Centenier is required to hear the facts of each case and decide whether or not it is in the public interest to prosecute the offender. The Centenier outlines the facts of the case as they have been presented and the attendee is asked whether or not he/she agrees with their interpretation. If the attendee does not agree that the facts of the case are an accurate representation of the incident, the Centenier is required to formally charge the attendee and remand the case to the Magistrate's Court for trial. The Centenier is not empowered to decide guilt.

The Centenier has a number of options available:

- No further action
- Written Caution
- Financial penalties
- Voluntary supervision
- The Pitstop scheme
- Deferred Decision
- Charge and bail for a Court appearance

It is important to appreciate that all the above options, except the last, are consensual i.e. they can only be adopted with the agreement of the attendee. It is equally important to realise that the Attorney General reserves the right either to bring prosecutions directly and also has the statutory power to direct a Centenier to bring a charge where for whatever reason, the Centenier had chosen not to prosecute.

### **Research Methods**

The researchers employed a number of methods during this project:

- An historical study of Jersey documents
- A review of international literature relating to traditional, informal and restorative justice
- Participant observation
- Structured observational study of enquiries
- Face to face interviews with 70 professionals and honorary officers.
- Analysis of written feedback with 58 attendees at Enquiries
- Face to face or telephone interviews with 20 attendees at Enquiries
- Analysis of re-sanctioning and re-conviction data

The use of multiple methods means that data from one source has been used to illuminate another to promote reliability and validity.

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## **Community Focus**

### *Community Values*

Centeniers reported that their desire to serve the community prompted them to join the honorary police. It is interesting that it is the 'parish' and not the island community that is the focus of their support. Such parochial insularity reflects an unusual perspective towards 'community' that has developed in Jersey as a result of the independence of the parish from central island control. In many modern jurisdictions, increases in crime and social unrest can be attributed to the death of community. Jersey has suffered some decline but multiple relationships of interdependency exist and remain strong.

### *Local Knowledge in Understanding the Context of Offending*

It is unlikely that the Honorary Police have the intimate knowledge of their parish community as they did in years gone by, particularly in the densely populated urban parishes. However, the practice of the application of local knowledge was observed to be effective: being noted as particularly pertinent in the cases of road traffic offences.

### *Centralisation*

The States Police perceive that a centralised location would maximise the strengths of the Enquiry system through the introduction of a standard format. Centralisation would take offenders away from the community they offend against. The maintenance and development of informal social networks are very effective at building safer communities. In other jurisdictions, creeping damage is being done to social systems capable of exerting informal control over behaviour. In Jersey, honorary service at parish level remains relevant to a significant number of the population.

### *Discretion*

Centeniers reported that the considerable potential for the exercise of discretion was the single most important factor in the discharge of their duties.

Centeniers with at least five years service reported that they had experienced a rise in the level of constraint placed on their decision making. The introduction of guidance notes, force orders, time period aims and training notes served to limit their discretionary powers. The introduction of standards of practice according to mechanistic rules can inhibit good practice and strict adherence can result the reduction of informal dispute resolution. In practice, decisions or choices are much constrained by formal and legal rules but discretion is still possible. An offence may pass the 'evidential test' but the 'public interest' in terms of community realignment and development can be prioritised. Many issues which would fall outside legal standards of relevance in Court can become the subject of scrutiny in enquiries.

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### *Prosecution*

In cases where the Centenier had some discretion in the charging process, the decision to charge was never observed to have been taken lightly. Even in cases where there was no discretion according to the law, justification for the charge was always explained and attendees were given the opportunity to raise any issues of concern. Often, attendees were anxious about a Court appearance and the Centenier was able to explain the process and answer questions.

### *Publicity*

Whereas the media provide the Jersey public with a link to the Courts, the Enquiry is a private forum and neither the process nor the results are reported. It is clear from interviews with participants that media presence would have prevented the kind of discussion that the process depends upon. The principal concern for most attendees who had been charged for Court was not the potential sentence but the fact that their personal details would appear in the widely read local newspaper. This shaming mechanism was noted to be particularly strong amongst local women.

### *Legal Advice and Legal Aid*

Very few attendees at Enquiries were accompanied by an Advocate. Centeniers stated that they often received telephone calls from legal advisers in advance to discuss the Enquiry and to offer a character reference.

Because the Enquiry is part of the prosecution process, Legal Aid is not available to attendees until a charge is laid. It was noted that on some occasions, Centeniers were unsure of the name and contact details of the current Bâtonnier.

## **Other Key Players in the Parish Hall Enquiry System**

### *The Attorney General*

Her Majesty's Attorney General is the titular head of the Honorary Police. This role is instrumental in the preparation of guidelines and directives, the investigation of complaints and the general promotion of Honorary Police activities.

### *The Court*

In recent years, the Magistrate has exerted considerable influence over the function and filtering of cases appearing at Parish Hall. The introduction of time period aims, the fast-track policy and the A + B priority lists of young offenders have accelerated the passage of a number of offenders into the formal system

Centeniers report that advice and guidance from the Magistrate is highly valued. The Magistrate is supportive of the Centenier's role and the principle of the Enquiry when applied to certain offences and circumstances. He has also shown himself to be supportive of creative and innovative solutions to offending proposed by Centeniers who would likely have received Binding Over Orders from the Courts.

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Currently there is no mechanism to allow referral of cases back to Parish Hall Enquiry where there may have been a change of circumstances relating to the charge. Such a mechanism may prove useful to avoid criminal conviction whilst ensuring that the offence is officially sanctioned. This facility may result in a reduction of the number of automatic prosecutions for co-accused according to current guidelines.

### *The States Police*

During the four year period of this research, there have been a number of changes in practice surrounding the States Police procedures leading up to an Enquiry. The introduction of a computerised system was reported in some quarters as having increased levels of bureaucracy which may have led to an increase in the numbers of offenders charged.

All cases are submitted to the Criminal Justice Unit where they are reviewed by a "Decision Sergeant" who makes a written recommendation to the Centenier based on a combination of factors.

Organisational norms and expectations differ and there is some evidence that the 'evidential test' is given greater weight than the 'public interest'. In contrast to other jurisdictions, the state police do not have the power to charge. Some interviewees in the States Police considered that it is no longer acceptable to have honorary officers as the gateway to the criminal justice system.

### *The State*

The state has a role to play in striking a balance between the professional and traditional approaches, ensuring that they cooperate to the benefit of the community.

The Criminal Justice Policy Consultation Document makes the following statement

Although the Committee agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, these are outweighed by the inherent dangers in tampering with a tribunal that works successfully as a diversionary tool. There has been evidence of a continuing tendency to by-pass the Parish Hall Enquiry for certain offences and in the case of some persistent offenders. For the system to work effectively there must be appropriate balance and good decision making on the part of Centeniers (Criminal Justice Policy Consultation Document 2005:61).

### *The Probation Service*

Unlike the Probation Service in England and Wales, the Jersey Probation and After Care Service is an agency of the Royal Court of Jersey. Officers attend all enquiries where youths are involved to offer assistance to the Centenier in his or her decision

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making. The Service also offers non-statutory supervision of offenders referred by Centeniers, restorative justice conferencing, administration of the Pitstop scheme and support to Centeniers. The Parish Hall Enquiry is considered by the Service as an important tool in the armoury of reducing offending behaviour and protecting the public from crime. The System is considered as a model of good practice and the Probation Service strives to uphold the system through detailed research and evaluation of process and outcomes.

## **Process and Compliance**

The researchers attended at over 300 Enquiries during the research period. A structured observation was conducted on 51 Enquiries. Data is provided on a number of aspects which are or should be covered by published rules and guidelines. Levels of compliance with some aspects of the notes varied considerably.

The following summarises key areas of compliance:

- In 57% of Enquiries, information leaflets were available. In some parishes, the documents are affixed to the wall in the waiting room, in others a Constables Officer explains the leaflet to each attendee before being seen by the Centenier. In others, the researchers could not locate the leaflets. ( See Guideline 2)
- In 92% of cases, the Centenier was accompanied by another honorary officer during the Enquiry (See Guideline 4).
- The Centenier fully explained the purpose and process of the Enquiry in less than half of cases. Where there was partial explanation, the attendee had either attended at a previous enquiry or was asked if they understood the process. Attendees did not view a lack of a formal explanation as problematic to understanding what was happening during the Enquiry process (See Guideline 5).
- The style of the Enquiry varied with some Centeniers always reading the police report and others who preferred to hear the facts of the case from the perspective of the attendee, clarifying any areas of concern with further questions (See Guideline 6).
- A high level of attention was paid to following the correct procedure during the charging process. All attendees who were charged were cautioned appropriately and in all but one case, the Notice of Charge was explained (See Guideline 8).
- Information regarding the provision of Legal Aid was less consistent. In one third of cases, no information was offered and in 3 cases, attendees were advised against seeking legal advice on the grounds of cost ( See Guideline 8.02)

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## **Effective Practice in Community- Based Justice**

The study identified several areas of good practice by Centeniers which are associated with positive outcomes:

- Procedural justice;
- Perceived fairness and legitimacy;
- Restorative Justice;
- Reintegrative Shaming;
- Clear disapproval of the offence, while maintaining a positive and optimistic view of the offender;
- Effective communication;
- Pro-social modelling.

For a fuller explanation of these elements of effectiveness, please refer to Key Findings section of this summary (pages 15-17).

## **Victim Offender Mediation and Restorative Justice Conferencing**

In Jersey “Restorative Justice” is by no means a new concept. Centeniers through the Parish Hall Enquiry system have for centuries been demonstrating initiatives that have more recently been defined as ‘Restorative Justice’. However the system in Jersey is set apart from other jurisdictions for a number of reasons:

- It begins and ends in the community;
- It exists outside the criminal justice system;
- It is in everyday use as an alternative to a court appearance;
- It is mainly resourced by the community, not the state;
- It is a highly developed system;
- It is adaptable and flexible;
- It is a cost effective solution when compared with the imposition of formal orders;
- It is the conventional response to offending behaviour in Jersey;
- It is not as victim focussed as other initiatives;
- Reparation is parish-focused;
- Victims are generally not present at enquiries, but a victim perspective is usually discussed by Centeniers.

The Restorative Justice Conferencing initiative was introduced into Jersey in 2002. This was linked to the Crime and Community Safety Strategy (latterly the Building a Safer Society Strategy) via objectives to look after the victims of crime and to re-integrate offenders and prevent re-offending. Conferencing was not intended to replace one traditional and successful justice initiative with one from overseas. The intention was to complement and build on the practices that are already established and successful in our society.

An evaluation of the initiative undertaken by Miles in 2004 shows that the levels of satisfaction of victims, offenders and participants in the conferencing process are very high.

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## Comparable Initiatives in Other Jurisdictions

Other examples of community justice and restorative justice are in practice around the world. There seem to be no exact or close equivalents to the Jersey system although reported practices of the 'Lensmann' in rural Norway are similar to that of the Centenier.

## Parish Hall Enquiry Statistics

A broad overview of trends noted at Parish Hall Enquiry taken from Probation Service Records shows an increase in activity for youths in recent years. However, it is widely recognised that the interpretation of criminal justice statistics is complex in Jersey (Rutherford and Jameson 2002).

## Key Findings:

The following summarise the main findings which have emerged from this research:

- The main advantage of the non-judicial Parish Hall Enquiry system is that it can provide a local, timely, inclusive, sensitive, needs-based, independent forum to deal with a wide range of norm-violating behaviour and social disorder.
- Despite a variation in performance and some examples of uneven compliance with formal guidelines, the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending and makes a very useful contribution in this role.
- Centeniers engage attendees in serious and realistic discussion about offending and possible remedies. Centeniers were observed to use personal qualities to good effect in order to provide a flexible, adaptable service. The communication, negotiation and mediation skills of some Centeniers were noteworthy. The high level of effective communication and sound correctional practice in Enquiries is one of the most striking findings of this study.
- There is clear evidence that the Parish Hall Enquiry process engages most offenders in taking responsibility for what has happened. Parish hall processes require participation, discussion and reflection. Court appearances, by contrast, are more likely to lead offenders to feel and behave like passive recipients of other people's decisions (Christie 1977; Walker 2000; Sherman, Strang, Barnes and Braithwaite 1999).
- Re-integrative shaming refers to the process of condemning unacceptable behaviour whilst respecting the offender as a person. In order to be re-integrated back into the community, offenders must show remorse, apologise to victims and repair the harm they have caused. Very high levels of successful shaming techniques were demonstrated by Centeniers.



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- Stigmatising shaming refers to a process where offenders are humiliated or labelled as 'bad' or 'deviant' in a way that offers little chance of redemption. Naming and shaming policies are one example of a stigmatising process. Centeniers showed very low levels of stigmatising behaviour towards attendees.
  - Pro-social modelling refers to the process of demonstrating, encouraging and reinforcing positive behaviour. Pro-social approaches in Enquiries are effective because they allow the discouragement and challenge of anti-social attitudes in a positive way in a familiar community environment. This has been identified in the international research literature as a critical component of effective rehabilitative work with offenders (Trotter 1999). Other studies have suggested that judgemental attitudes, blame and punishment are related to less favourable outcomes (Trotter 1996 (a); Lipsey 1991; Gendreau 1996). Centeniers were observed to use their role in the community to facilitate successful problem-solving approaches to promote pro-social practices such as caring for others and consideration for one's neighbours.
  - Participants reported high levels of satisfaction with the process, particularly when conferencing is used. Recidivism rates are low. 83% of victims reported satisfaction with restorative justice conferencing as a method of resolution together with 75% stating that the process encouraged offenders to accept responsibility for their actions.
  - Guidelines provided for conduct at Parish Hall Enquiries are complied with in the majority of cases although the tendency for the process and function not to be fully explained risks criticism from other parties. Improved guidance and training would ensure more consistent attention to these matters. This would ensure that the advantages of informal processes in terms of positive influence on behaviour are maintained. Formal approaches may appear to offer a more consistent approach to rights but this is often offset by offender's lack of engagement or understanding.
  - There is an increasing pre-occupation with measurable outcomes and procedural uniformity which risks undermining the flexibility and responsiveness to the individual case which appear to be essential components in the system's current effectiveness. It is possible that the requirement to take an increasing range of cases direct to Court risks diminishing the role of the Parish Hall Enquiry.
  - There is a lack of consensus between some of the parties involved in the criminal justice process about the purposes of Parish Hall Enquiries. The Memorandum of Understanding has contributed greatly to the clarification of respective roles, responsibilities and functions between the States Police and the Honorary Police.
  - The cost to the taxpayer of the Parish Hall Enquiry system is low (1% of the annual States of Jersey Police budget is required to underpin the honorary system). If the Parish Hall Enquiry and the prosecuting role of the Centenier were to cease, the States would be required to fund a replacement at

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considerable cost. The social cost of losing the honorary system would be high. The comparative costs and benefits (including participant satisfaction and reconviction rates) would suggest that the system has proved its worth. It would be unwise to reduce the role of such a system unless it can be shown that it is ineffective. Clearly, this is not the case.

- The Parish Hall Enquiry system demonstrates that the restorative outcomes expected by the introduction of a raft of measures in England and Wales as a result of the enactment of the Crime and Disorder Act and the Youth Justice and Criminal Evidence Act can be achieved by the community without recourse to complex, expensive, professional organisational frameworks. Our research suggests that the introduction of new formal systems of legislation and orders such as Anti-Social Behaviour Orders are unnecessary and possibly counter-productive when the informal systems and voluntary contracts can be shown already to be effective and efficient.
- This research suggests that it may be realistic to expand the role of Parish Hall Enquiries in order to reduce costly Court time. Given the success of the Victim Offender mediation initiative, there is potential to consider how Enquiries might usefully deal with more serious offences, particularly those involving public order.
- The honorary system and the Parish Hall Enquiry are in a transitional phase. There appears to be a threat that they could be modernised out of existence. Both are under threat unless people are prepared to keep the system going and make decisions that will protect it. It is not the case that because an institution is ancient, it is archaic and unsuited to modern needs: tradition and adaptability can be a very effective combination.

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## INTRODUCTION

### The Background to the Study

This research project was proposed by the Jersey Probation and After Care Service and funded by the Senior Officer Group of the Crime and Community Safety Strategy in 2001 to describe and document the Parish Hall Enquiry and the honorary system upon which it depends, in order to evaluate the role they play in the administration of justice in Jersey. The Jersey Probation and After-Care Service acted as managing agency for the research which was conducted with the approval of the Comité des Connétables and Her Majesty's Attorney General. An interim report entitled "Evaluation of the Parish Hall Enquiry" was published in 2003 and summarized in an article in the *Jersey Law Review* in February 2004 (Raynor and Miles 2004). Considerable interest was also aroused by an article in the UK's *Probation Journal* describing the Parish Hall Enquiry system and outlining the scope of the study (Miles 2004), and by papers at the British Criminology Conferences of 2003 and 2005.

The research partnership between the University of Wales, Swansea and the Jersey Probation and After-Care Service goes back to 1996, when new risk assessment methods were introduced into the Service and the University was asked to help in validating them for Jersey and evaluating their use. From this developed a programme of research into the effectiveness of various sentences in reducing the risk of re-offending (for example, Miles and Raynor 2004). The University also helped to organise the Crime Strategy Seminar in the Atlantic Hotel in July 1997. During the course of these activities it became increasingly clear that the Parish Hall Enquiry system was playing an important part in Jersey's response to offending; that it was the focus of various proposals for enhancement or reduction of its role (for example, in the Clothier Report of 1996); and that there was little documentation of exactly how it currently worked, and no systematic evaluation of its impact or effectiveness within the criminal justice system. There was also some confusion about its status, generated largely by those (such as Clothier) who appeared to regard it as a kind of low-level court, rather than in accordance with its locally accepted legal basis as part of a discretionary prosecution process.

To cut a long story short, it appeared to a number of participants in the system that it would be useful to have available some objective research on the Parish Hall Enquiry. In 2001 this was funded by the Crime and Community Safety Strategy, using a combination of a Jersey-based researcher (Miles) and external academic research management (Raynor), with a steering group drawn from the Strategy, the Probation Service, the Centeniers' Association and the States Police. All members of the steering group and the Attorney General have had an opportunity to comment on a draft version of this report. In keeping with the purpose of the study, our focus has been on what actually happens and on what participants in the process think of it, with considerable reliance on direct observation of enquiries and on interviews with those involved both in the enquiries and in the wider system. It was not our task to comment on what *should* happen, for example by making recommendations about how the role of the Parish Hall Enquiry should develop in the future; instead, our aim was to contribute to the evidence-base which might in due course help to inform decisions about the future by those properly empowered to make them. However, we

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hope that our work can throw some light on the current and, by implication, the potential contribution of the Parish Hall Enquiry system to the maintenance of social peace and order in Jersey.

### **The Wider Criminological Issues**

We also now anticipate that this research will be of considerable interest outside Jersey. One major focus of our work has been the extent to which the personal communication which lies at the heart of the Enquiry process is or is not of the kind which is likely to have a positive impact on the future behaviour of offenders. To develop methods of addressing this we have drawn on the growing criminological literature on 'what works' in communicating with and supervising offenders. This evidence-based approach to criminal justice has been one of the major international developments of the last two decades, and we have been able to draw on international research about ways of encouraging and reinforcing more pro-social attitudes and behaviour (e.g. Trotter 1999), and about ways of making it more likely that offenders will genuinely regret their actions and want to make amends in future (e.g. Braithwaite 1989). In its turn, this study will contribute to the international evidence-base.

A second area in which this study intersects with international debates and research concerns the place of local decision-making, informal practices and community involvement in the criminal justice process. Throughout the world industrial societies are becoming concerned at the way criminal justice has become the business of the State and the professionals to the exclusion of the community and often of the victims. As social change threatens to weaken social bonds and create societies of strangers, criminal justice authorities are looking for ways to re-engage communities and to involve offenders and (if they wish) victims in active participation in resolving the consequences of offending or reducing the chances of further crime. Over the last forty years we have seen the steady growth of an international restorative justice movement designed to engage offenders themselves in discussions and decisions about how they can help to undo some of the harm done by offences. Criminologists have written about restoring some decision-making power to those directly involved and to their communities (e.g. Christie 1977), and many jurisdictions are now adopting a variety of restorative justice practices with the active support of international organisations such as the United Nations and the Council of Europe. Usually one aim of such practices is to provide, in appropriate cases, a cost-effective, locally-based and problem-solving alternative to the formal court process and conventional sentencing. (Some legal scholars and criminologists are now arguing that the criminal courts themselves should become more problem-solving in their approach. This would mean being more actively involved in developing and supervising plans for offenders to address their difficulties and construct more law-abiding lives, in the way that some drug courts have done. This is sometimes described as 'therapeutic jurisprudence' – see McGuire 2003.)

In most countries such participatory and restorative practices, and the organisational arrangements to support them, have to be developed from nothing, or revived after falling into disuse. In New Zealand precedents were found in traditional Maori culture, and in Canada attempts have been made to revive practices based on the traditions of the original inhabitants before European colonisation. Hardly anywhere in the

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literature do we find examples of traditional locally-based participatory alternatives to formal court processing which survive in modern Western societies as an integral part of current criminal justice systems. The Jersey Parish Hall Enquiry, with its broad scope, long history and basis in voluntary service to the community, is therefore of great interest, and deserves to be properly documented and recognised. There is also a wider interest in how everyday social practices in small communities can often exercise effective social control in informal ways, reducing the need for formal intervention by the criminal justice system.

The Norwegian criminologist Nils Christie has pointed out how informal and restorative practices are particularly appropriate to situations where people will continue to inhabit the same communities after the issue has been dealt with, and he links this to discussion of the social structure of neighbourhoods and, interestingly, islands (Christie 2004). The formal criminal justice process is only one way of handling unwanted behaviour, and sometimes it is advantageous to have ways of dealing with crimes without creating criminals. This report, therefore, is primarily written for people concerned with the development and implementation of criminal justice in Jersey, but its findings will also contribute to the wider literature about the possibilities and limitations of such approaches.

### **What This Report Covers**

The purpose of this report, then, is not to make recommendations about policy but to present as full a picture of the operation, achievements and problems of the Parish Hall Enquiry system as the resources available to the study would allow. In a few places the value and reliability of the findings is affected by difficulties in access to information, and where this is the case we have tried to make it clear. In most areas of the research we have been greatly assisted by people's willingness to make information and time available to us, and we are very grateful to them. Any remaining errors of presentation or interpretation are our responsibility.

The report presents the key findings of the study in three parts, each containing a number of sections. The first part explores the background of the Honorary System on which the Parish Hall Enquiry depends; its origins (in so far as these can be ascertained); the contemporary context of operation in a hybrid policing system, and the role and process of the Parish Hall Enquiry itself.

The second (and longest) part contains the main findings of the evaluation study. It describes the methods used in the research; explores the role and views of the Centeniers and other 'key players' in the system; and reports in detail on the observational study of a large number of Enquiries. The report of the observational study is divided into two sections: the first describes actual processes and considers how far the Enquiries comply with the guidelines that have been developed for their operation, and the second considers how far the conduct of the enquiries and the process of communication in them coincide with what is known about effective ways to influence offenders. The remaining sections in this part consider the involvement of victims and the extent of the restorative component in the Enquiries; the extent to which they resemble or differ from a selection of comparable practices in other jurisdictions; and finally, the scale and scope of their operation as revealed by official statistics.

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The third and final part summarizes the key findings of the study, and describes some of the pressures on the systems which are likely to affect its future operation. Overall, the Parish Hall Enquiry is seen as having considerable strengths and a number of desirable effects on the Island's criminal justice system, but also as needing attention in some areas, for example in relation to training and consistency. Some possible options for future development are explored. In addition, a number of appendices cover technical aspects of the system and of the research, including relevant official guidance.

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## Part I

### Origins and Contexts

#### 1. ORIGINS OF THE HONORARY SYSTEMS OF JERSEY

In this section we describe the origins and history of the honorary system and the Parishes. In particular, the continuing strength of the Parishes as social and administrative units represents an unusual survival of a traditional form of social organisation, and forms the basis of the honorary policing system of which the Parish Hall Enquiry is a part.

The study of the history of the establishment and the development of the community institutions poses certain problems for the researcher. Whilst there are a number of sources which document the history of the Island, there is very little written prior to 1996 either about the Honorary Police or the Parish Hall Enquiry system. References to the Honorary Police usually refer to the “quaint custom” of parish policing and neither attempt to describe the origins of the system nor to evaluate either its effectiveness as an important instrument of the maintenance of peace and social order in the parishes. The important role played by the Parish Hall Enquiry system in the administration of justice in Jersey is largely ignored. The absence of literature is in itself interesting. Despite the unique nature of the policing system and the rare example provided by the Parish Hall Enquiry, they both have escaped the serious attention they deserve in the literature. In recent years, the honorary system was afforded a section in publications on the subject of comparative policing (Mawby 1990, 1994) where the point is endorsed that further examination of the system would prove both interesting and informative.

There are two significant events that served to shape the history of Jersey and help to explain the unique and anomalous constitutional position that persists today. The first of these was the Norman Conquest in 1066 when Jersey remained part of the Duchy of Normandy “in all respects, in its currency, in the administration of justice and in the interests the continental landowners had there” (Syvret and Stevens, 1981). The laws were the same as the laws of the remainder of Normandy and the Island retained the right of appeal to the itinerant Courts (Les Justices Itinerants) established under Rollo, the first Duke of Normandy during the 10<sup>th</sup> Century. Les Justices visited Jersey regularly and once every three years, “Le Grand Seneschal du Prince” (Chief Justice) travelled to Jersey to oversee the administration and development of the judicial system.<sup>4</sup>

The second significant event was the ceding of continental Normandy to France, in 1204. King John of England lost the Duchy of Normandy, (which included the Channel Islands) to the French. At this point, the Island was presented with three choices: either to transfer sovereignty to France, to become independent or to remain and appendage of the crown of the King of England. Choosing the latter, the Island remained loyal to King John, and although ceding the title of Duke of Continental

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<sup>4</sup> The office of “Seneschal” still exists today in the smaller Channel Island of Sark, where the role is that of Judge and executor of the law.)

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Normandy, the Island continued to use the title 'duc' to refer to the King. In return for this loyalty, King John granted the Charters that form the basis of the current constitutional privileges of the Island. He permitted the establishment of separate administrations and decreed that Jersey should self-govern according to established custom and law: essentially the customary law of Normandy. The Royal Court was established, having full jurisdiction of the King.<sup>5</sup> The system of law based on La Grande Coutume de Normandie was retained and together with the development and reinforcement of customary law, the Island of Jersey established itself as an autonomous 'appendage' to the English crown. It is this retention and development of customary law that is considered to be the principal factor in promoting its autonomy (Le Herissier, 1974). The parliament of Jersey, known as the States (Les États) evolved gradually from the Royal Courts established by King John.

### THE ROLE OF THE FIEF

The fief was of fundamental importance to the internal structure of Jersey. Along with the parish, in both its civil and ecclesiastical mould, the fief provided the basic framework for rural life. Fief and parish were major units of social cohesion and identity in a society whose inherent dislike for centralisation could be observed in its dispersed settlement pattern. (Kelleher 1994:16)

Honorary service in Jersey has its roots in a feudal system of social organisation underpinned by the existence of the "fief". As head of the Fief, the Seigneur was entitled to a number of 'privileges' such as the right to divide land in order to secure the performance of the services of prevot, sergent, bedel, halberdier or any other feudal service. Seigneurial courts were convened regularly during the 18<sup>th</sup> Century in order to administer civil matters such as non-payment of rent or fines. Despite the considerable power of the Seigneur over his tenants, recourse to the Royal Court was often necessary because the Seigneurial courts had no real power to enforce judgement. Many of the feudal rights afforded to the Island Seigneurs were abolished by enactment in 1966<sup>6</sup> and the Courts fell into disuse.

In addition to the Seigneurial Courts, the Ecclesiastical court exercised power over community members. This Court comprised Le Doyen (the Dean) who presided over the rectors of the other 11 parishes. One Greffier (Clerk of the Court) and two advocates were also sworn in as officials. The powers of the church court were derived from certain canons and ecclesiastical constitutions. These courts met primarily to adjudicate upon divorce matters although jurisdiction also extended to deal with a number of offences including blasphemy, adultery, recourse to witchcraft and drunken behaviour. Whilst the Doyen could pass sentence, like the Seigneur he had no real power enforce the order of his own court and Ecclesiastical courts often required the same recourse to the Royal Court to enforce judgement.

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<sup>5</sup> This established system remains although the Privy Council has replaced the personal presidency of the monarch.

<sup>6</sup> Seigneurial Rights (Abolition)(Jersey)(Law), 1966



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## THE RISE OF THE PARISH

The organisational framework of the parish had evolved through a series of relationships of paternalism and deference to the King and the officials appointed by individual fiefs. The current twelve parish structure became established in the 12<sup>th</sup> Century and possibly earlier. Initially providing a framework for ecclesiastical organisation, it also provided a useful organisational unit of both civil and military organisation. The parish also became established both as a community and an entity in law (Kelleher 1994)<sup>7</sup>. Despite the small geographical area of the island, from a cultural perspective, rather than becoming a single island-wide community, Jersey developed unusually, as an island comprising twelve separate “bubbles of governance” (Shearing, 2001) each having considerable discretion to shape and control events that took place within parish boundaries. There was an important distinction between the rich and the poor parishioner. The rich (Les principaux) became eligible to rule their parish by virtue of their wealth and more specifically the size of their property and the rate paid thereon. Although many parishioners paid rates, only a few paid high enough to achieve ‘principaux’ status. This was important because being part of the ‘principaux’ gave automatic access to the parish governing body, “L’assemblée paroissale”. This assembly not only set the rate according to the funds required to sustain the parish, but also determined who was permitted to vote in elections. All parish matters, including policing, were dealt with by a system of unpaid officers, elected and controlled by the ‘principaux’ of each parish.<sup>8</sup>

In an Island characterised by a lack of communal expression, the parish, as the only institutional representative of a collective identity, reflected the attitudes and responses of the rural population to change and possible threats to the traditional way of life (Kelleher 1994:59).

The role of the parish as the primary unit of social organisation in Jersey is of vital importance. Les assemblées paroissales and the Honorary Police formed a powerful political body, able to influence the direction of Island government.

The role of the Connétable and his officers reflected this strong interest in the affairs of the community. Their role was the administration and policing of the parish in paternalist fashion; keeping parish matters within parish hands. Recourse to the instruments of justice outside the parish, that is to the Royal Court was made only when totally necessary (Kelleher 1994:58).

Each of the twelve parishes has an internal structure designed to promote good stewardship. All positions are honorary<sup>9</sup> and office holders are elected by the rate-payers of the respective parish. In addition to the Honorary Police, there are a number of other posts which are held by parishioners. These include Inspecteurs des Chemins, (Roads Inspectors), Procureurs des Biens Public (Parish Treasurers) and Inspecteurs des Rats (Rates Assessors). The involvement of the community in this

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<sup>7</sup> See the Parish of St Helier v Manning 1982 JJ 183

<sup>8</sup> This continues into modern times, where parish officials are elected to serve a term of office by the ratepayers of the parish. The distinction between rich and poor has eroded over time in that les principaux – the wealthiest landowners no longer take precedence over the ‘ordinary’ property owner.

<sup>9</sup> Since 1998, the position of Connétable is entitled to remuneration according to the terms of the States’ Members Income Act (1998) JERSEY R & O 9275

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way ensures that decision making is kept at local level. In other jurisdictions all of these services would be provided by the state via paid functionaries.

The existence of the parish as a separate entity, independent of Island central control is important to understanding the social and political circumstances which have allowed the systems of Honorary service to prevail into modernity.

The dislike of centralisation pervades every aspect of Island life into the 21<sup>st</sup> century probably because the unit of social organisation and administration remains the parish. The pressure towards modernisation which maintained by some business interests, an in particular the finance sector, encounters continued opposition from supporters of a traditional way of life, who are primarily resident in the country parishes.<sup>10</sup>

The law in Jersey has evolved from a system appropriate to an agrarian society to the complex classification necessary to underpin the requirements of an international finance centre.<sup>11</sup> What is significant about this transition is the uncharacteristic absence of a process of industrialisation that is visible in almost all modern European societies. Throughout this transition process, reliance upon customary law has ensured that the Honorary System proved remarkably resilient in a changing context. In addition, the political influence inherent in the system has given it some protection from outside pressure (Kelleher 1994).

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<sup>10</sup> The continued public outcry at the suggestion of the Clothier panel (2001) to remove the right of Connétables to sit in the States by virtue of their office alone provides a contemporary example. This move was rejected in November 2004 when the house overwhelmingly voted in favour of the retention of the ex-officio role of the Connétables.

<sup>11</sup>For a discussion of Jersey's evolution into an offshore finance centre, see Hampton M in Baldacchino and Greenwood (1998:292-311)

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## 2. THE HONORARY POLICE

### DERIVATION OF THE RESPONSIBILITY OF THE PARISH FOR POLICING

This section provides an account of the origins, role, powers and legal basis of the Island's honorary police, from the earliest records through to the Rutherford Report of 2002. It describes how their role has evolved over time, and how it has been affected by various constitutional changes, including the establishment of a paid police force.

La Police est, dans les îles l'objet d'un respect universel. Cela tient à ce qu'elle est partout et qu'on ne la voit nulle part (Le Cerf 1862: 180).

This quotation from a French commentator in the nineteenth century, invokes the essence of Honorary Policing in Jersey. Imperceptibly, the existence of an unpaid body of parishioners pervades community life; helping to maintain peace and social order across the island. (It was this notion of unremitting watch that figured largely in Peel's creation of a paid police body in London in 1829).

The system of policing within the parishes has changed little since its establishment by the French Kings in early times. Under the general supervision of the Attorney General, honorary officers provide an effective and powerful network of local knowledge that criss-crosses the Island. Authority is derived from the oath of office, sworn before the Royal Court. Whilst the Code of 1771 ratified the law, the powers afforded to the Honorary Police are predominantly customary in origin. Within the boundaries of their own parish the Connétable and the Centenier have the power of arrest and the right of entry to any premises, without warrant, to search for stolen property or prevent a breach of the peace.<sup>12</sup> The Vingteniers and Officiers de Connétable are permitted to exercise these powers only in an emergency or when ordered to do so by the Connétable.

The development of parish policing is likely to have its origins in the form of community organisation established in the medieval period. Records from medieval assize court hearings from 1309 show the existence of juries of presentment – 'Les hareles' which were recruited on a parochial basis. (Rolls of the Assizes held in Court, 1309). These records suggest that the parish was responsible for forming a body of men to pursue wrongdoers, keep watch at night, and guard prisoners in custody and to ensure that suspects seeking refuge in the parish churches did not escape. On occasions, the entire parish could be fined for failing to bring offenders to justice (Le Herissier 1974:20).

Records from Les Justices Itinerants indicate that the 1331 "extente" (census) of the Channel Islands was prepared on a parish basis from information provided by a twelve man jury. These early juries developed into parochial juries of preliminary investigation in criminal cases. This jury was known as L'enditement which comprised twelve members of the Honorary Police belonging to the parish in which

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<sup>12</sup> This Customary Power Was Abolished In December 2004 Following The Enactment Of The Police Procedures And Criminal Evidence (Jersey) Law 2003

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the alleged offence was committed. Whilst twelve Officers were summonsed to attend the hearing, a minimum of seven were required to hear the evidence or the accused was permitted to refuse the indictment. L'enditement would hear all the evidence, the Bailiff would sum up and the jury would retire to deliberate. One of two verdicts was possible. If the accused was found to be "more innocent than guilty", he would be released. If found "more guilty than innocent", the accused was formally indicted and remanded to the Royal Court for sentence.

The accused had the right of appeal on the verdict to La Grande Enquête de Pays, an assembly of twenty four members drawn from the parish in which the offence was committed and the two neighbouring parishes. This right was prescribed in the Suye de Meudre of La Grande Coutumier du Pays et Duché de Normandie.

cette enquete doibt ester fait par vingt et quatre loyaux hommes les plus preud'hommes et les plus creables du voisine, qui ne soyent pas soupeconneux ne par amour ne par haine

(This enquiry must be made by twenty four loyal men, the most wise and credible in the neighbourhood, who are influenced neither by love nor hate)

Le Cerf observed that Jersey found it preferable to have a jury thus composed of men who "connaissant les antecedents et la reputation de l'accusé, il peut apprecier en tout surete de conscience les circonstances de crime" (Le Cerf 1862:161) (knowing the past history and reputation of the accused, can appreciate the circumstances of the crime). When the twenty four were assembled, the process of L'enditement was repeated. The jury retired and returned with a verdict. The accused was dismissed if four of the twenty four members moved for acquittal. If the Grande Enquête found the same as L'enditement then sentence, decided by the Bailiff and seven Jurats was irrevocable.

These examples illustrate the centrality of the parish in deciding whether or not parishioners who had committed offences should be punished. Whilst the Bailiff and the Jurats had the power to sentence offenders, the power to divert from punishment lay with the members of the parish jury. It is clear that the use of parishioners in the administration of justice was commonplace from very early times. Whereas the processes of L'enditement and La Grande Enquete were abolished in the nineteenth century, following claims of partiality, the power of the Centenier to hear cases remained unopposed until the late twentieth century.<sup>13</sup>

## OFFICERS OF THE PARISH

Each Centenier exercised a veritable magistracy, the Vingteniers and others are chosen amongst citizens of proven morality, each resident is thus protected without ever having to doubt that an over-zealous action is stimulated by the need from promotion or by the search for financial reward (Le Cerf 1862:185 (translation)).

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<sup>13</sup> L'enditement was abolished in 1863 following claims of partiality (1847- Report on Criminal Law)

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## THE OFFICE OF CONNÉTABLE

The Connétable is the principal officer of the respective parish and the head of the Honorary Police.<sup>14</sup> Prior to 1998 this office was honorary and unpaid. In addition to the policing and administrative functions, the Connétable represents the Parish in the States Assembly.<sup>15</sup> A Connétable is elected by parishioners to serve a three-year term of office. At the end of that period he/she must seek re-election.

The precise origins of the office are unknown and there is speculation from numerous sources. The title Connétable does not appear in records as a parish official until 1462 (De Gruchy 1957: 153), although it is likely that the role was well established by this time. In 1495, an Ordinance of Henry VII required that the Connétables exercise police duties and that the Connétable of each parish be freely elected and chosen by the elders of the Parish.<sup>16</sup>

Syvret and Stevens note that the role is difficult to equate; being neither the “comes stabuli”- the keeper of the horse denoting high military rank in France, nor exactly the “Constable” in the English sense, who was solely responsible for law and order prior to the introduction of a professional police force in 1829 (Syvret and Stevens, 1972: 15).

An alternative view of the origin is presented by Le Cerf who suggests that the role of Connétable is a remnant of the communal organisation introduced by the English Kings in the 14<sup>th</sup> Century. At that time the parishes were organised along military lines, having at their head a Connétable who commanded Centeniers who in turn supervised Vingteniers. The Connétable had as much civil as criminal jurisdiction. Later the creation of the parish militia relieved them of all but municipal duties. Kelleher concurs with De Gruchy that it is likely that the names of the parish officers, Connétable, Centenier and Vingtenier are military, relating to the units of military organisation mentioned in a 1337 document ordering the Warden, Thomas de Ferrers to raise arms.

Bois considers a more pragmatic origin, suggesting that the title was merely borrowed as “a convenient title already in use in the two neighbouring countries with which the Island was closely associated” (Bois 1974:45).

Whatever the origins of the title, the role of the Connétable has not changed since the fifteenth century. The “father of the parish”<sup>17</sup>, is charged with ensuring the safety and responsibility of the parishioners and is personally responsible for ensuring the presentation of criminal cases before the Royal Court. The Connétable has a multiple role in the parish, the duties being formalised in the Code de 1771:

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<sup>14</sup> Legislation has been lodged to delegate this duty to the Chef de Police of the Parish.

<sup>15</sup> The proposal by the Clothier Committee to remove the right of a Connétable to sit in the States Assembly by virtue of office alone was defeated in November 2004

<sup>16</sup> A frequently heard anecdote about the honorary police is that they are the second oldest police force in existence after the Swiss Guard. The origin of this assertion is unknown. Research into the history of the Swiss Guard would suggest otherwise. In 1506, Pope Julius II invited the Helvetian soldiers to Rome where they passed through the Vatican to be blessed by the pontiff. In 1512, the pope bestowed upon the Guard the title of “Defensores Ecclesiae Libertatis” (defenders of the freedoms of the church) and they were charged with protecting the Pope in his mission to save Christianity and Italy from the barbarians. These Jersey records show the existence of the Connétable well in advance of the papacy of Julius II which began in 1503.

<sup>17</sup> Only two women have held the position of Connétable, in the rural parishes of St Lawrence and St Brelade respectively

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**LES CONNETABLES** sont tenus de faire rapport, et présenter en Justice toutes personnes contrevenant aux Ordonnances et Règlements établis pour le bon ordre dans la société, et d'assembler une fois le mois leurs Officiers, afin de se mieux enquérir des délits qui seroient commis, et de pouvoir connoître les délinquans, selon la teneur expresse du serment de la charge. Ils ne continueront point en la charge, non plus que les Centeniers et Vinteniers, plus de trois ans, à moins qu'ils n'y soient élus de nouveau, et qu'ils consentent de l'exercer ; et après ledit terme, l'Officier du Roi s'adressera à la Cour, qui ordonnera une nouvelle élection selon l'usage<sup>18</sup>.

The notion of maintaining order in the community and pursuing wrongdoers was thereby enshrined in law together with the assembly of officers to enquire into the commission of offences. The establishment of a powerful network of local knowledge was necessary to achieve this mandate, a service that was provided by a team of subordinate officers.

#### *THE OFFICE OF CENTENIER*

The Connétables are assisted by a Centenier; also elected by parishioners to serve a three-year term. Either retired from, or following another occupation, the Centenier acts in a voluntary, unpaid capacity, primarily performing duties associated with Parish Hall Enquiries and prosecution.<sup>19</sup> The Centenier is also empowered to deputise for the Connétable in his absence. Originally each parish required one Centenier but this number has been increased by order of the Court depending on the size of the population of the parish.<sup>20</sup>

There are explanations found in historical works as to the origin of the term "Centenier". A French translation of the bible tells the story of "Le Fils de Centenier de Capernaum" (Matthew 5, 8-13). An English translation recounts the story of the Centurion's son. Kelleher considers that the origin is likely to be military relating to the responsibility for one hundred men and the term Centenier was well known in France in this context (Kelleher 1994). The first references in official Jersey records exist as early as 1502 (De Gruchy 1957, Bois 1970).

Guizot however raises the possibility of a much earlier incarnation of the role. Citing the title of the "Capitulaire de Louis Le Debonnaire" he notes the existence of the office of Centenier in France in 819.

Des vicaires et des Centeniers qui, bien plus par cupidité que pour rendre la justice, tiennent, tres-souvent des plaids et tourmentent ainsi trop la peuple (Capitulaire de Louis Le Debonnaire, 819. Baluze Tome 1 Col. 616 quoted in Guizot).

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<sup>18</sup> [Translation: The Connétables are bound to report and present before the Court all who contravene the Orders and Rules established to maintain order in the community, and to assemble monthly their Officers in order to inquire into the commission of minor offences and to be made aware of wrongdoers, according to the terms of their oath of office. They will not serve longer than three years, (unless re-elected and if in agreement to serve) and after the said term, the Crown Officer will address the Court, who will order an election].

<sup>19</sup> The establishment of the Police Court in 1863 formalised the authority of the Centenier to charge individuals and present them before a stipendiary magistrate for sentence. The Attorney General may initiate proceedings in his own right and may overrule Centeniers who refuse to exercise their discretion to prosecute.

<sup>20</sup> See (Loi (1853) au sujet des Centeniers et Officiers de Police).

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Other texts refer to ancient forms of community organisation which pervade modern social life in Jersey.

Que l'assemblée (conventus) se face selon l'ancienne coutume, dans chaque centene, devant la comte ou son envoye, et devant le Centenier (Lois des Allemands, t xxxvi, C.1 quoted in Guizot : 88).

It is interesting that the Centenier is referred to independently of the Count or his envoy.

Alternative texts quoted by Guizot describe the organisation of a feudal social life that, in parts, is familiar to Jersey.

Que le plaid (placitum) ait lieu de samedi en samedi, ou tel jour qu'il plaira au comte ou Centenier, de sept nuits, lorsqu'il y aura peu de tranquillité dans la province: quand la tranquillité sera plus grande, que l'assemblée ait lieu de quatorze au quatorze nuits, dans chaque centene comme il est ordonne ci dessus.

Que les plaides se tiennent a toutes les calendes, ou tous les quinze jours s'il est necessaire, pour examiner les causes, afin que la paix regne dans la province (Lois des Allemands, t xxxvi,C.1 quoted in Guizot : 88).

Free men were obliged to attend the gatherings whose principal business was to deliver justice.

Si quelque homme libre néglige de venir au plaid, et ne se présente pas au comte ou a son délégué, ou au Centenier, qu'il soit condamne a payer 15 solidi (Loi des Allemands t xxxvi C.4 cited in Guizot).

The accession of Charlemagne to the French throne made it more difficult for these community gatherings to survive in France. He increased his power by remodelling and rationalising the feudal systems of France. It would seem that this rationalisation never extended to Jersey hence the office of Centenier as a relic from a time when a feudal regime dominated island life.

In the absence of any island-wide system of policing, the maintenance of peace and social order in the parish and the investigation of crime fell squarely on the shoulders of the Centenier who occupied a pivotal role in the parish. This task was often quite onerous, particularly in St Helier. Centeniers report being woken up several times a night to attend incidents. In parishes where there was more than one honorary officer, the most senior in terms of length of service, became the Chef de Police and was able to deputise for the Connétable in the States Assembly.<sup>21</sup>

The powers vested in the Centenier are customary, conferred via the oath of office, administered by the Royal Court as specified in the Code de 1771. The oath

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<sup>21</sup> This customary right was challenged in St Helier in 2004 and in the Honorary Police(Jersey) Regulations 2005 provided for the Connétables to appoint a Chef de Police of their choice following consultation with the Honorary Police of the relevant parish.

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empowered the Centenier to seek out and control wrongdoers in order to prevent breaches of the peace arising principally from the over-consumption of alcohol.

You swear and promise by the faith and oath which you owe to God, that you will well and faithfully exercise the duty and Office of Centenier in the Parish of ..... , you will keep and cause to be kept her Majesty's Peace, opposing and arresting all unruly and seditious persons, thieves, murderers and all others who disturb the Public Peace, and you will inform the Constable in order that they may be brought to justice to be punished according to their misdeeds, together with all who frequent taverns, drunkards, dissolute persons, harlots, blasphemers and all others who contravene the Rules and Orders of the magistrate which Orders you will keep and observe and cause to be kept and observed insofar as possible. You will not permit anyone in your parish to conduct a tavern other than those persons permitted and licensed from time to time, and you will have a special care, by your own diligence and that of your Officers, that the day of Sunday shall not be profaned by assembly at, or frequenting the said taverns or other places, contrary to the Orders in this matter, which Orders you will carry into due execution; you will make, and cause to be made, such inspections as may be necessary or as may be required of you; in particular you will cause a general inspection to be made , once every three months, in such places and houses in the said Parish as are suspect; you will conserve and further, as well as may be possible, the rights that appertain to the said Parish, acting, insofar as concerns the public wealth thereof by the advice and good counsel of the Principals, the Constable and the other Officers of the said Parish. You will assist the Constable to assemble the said Officers once each month and you will assemble them yourself when it shall be required of you, in order to consider such matters as may be necessary concerning all evil-doers and refractory persons and those who disobey the Orders of Justice so that the Court and the Queen's Officers may be informed thereof from time to time; you will execute the commands of the Governor, or of the Lieutenant Governor, of the Bailiff and his Lieutenant and members of the Court, insofar as concerns their respective offices, ( attending at the States when called upon to do so;) and in all these matters you promise to do your loyal duty, on your conscience(Serment des Centeniers, Code de 1771).

The States Committee charged with the creation of new legislation have recently revised the oath to reflect the modern context in which the contemporary Centenier operates (See Appendix A ). The new oath maintains the spirit to keep and cause to be kept the Queen's peace, but removes the outdated elements such as controlling the observance of the Sabbath and illegal tavern-keeping.

#### *BATON DE JUSTICE*

Each Centenier has the right to carry a staff of office, a small truncheon known as a baton. Oral testimony from a retired jurat reveals that the batons were created during the Napoleonic Wars when Jersey was under the governorship of General Don (1806-1814) He had brought to the island a group of labourers to assist in the



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construction of the roads. These men were not only troublesome but also low-paid and petty pilfering of food was common. Following the alleged theft of a chicken by a labourer in St Peter, the parishioner had called in the Centenier and Vingtenier to investigate. Due to the fact that the Centenier wore no uniform, bore no identification and spoke only Jerriais, the alleged thief refused to acknowledge his jurisdiction and a fight broke out. Eventually, the army arrived were called to restore order. The commanding officer also refused to acknowledge the authority of the Centenier. The fracas developed into a near riot involving a number of parishioners. The matter was eventually reported to the Bailiff and the Lt. Governor, General Don who undertook to furnish a baton bearing the respective parish crest to each of the twelve Centeniers. Each Centenier would be required to produce the baton as proof of identity when attending incidents. At the beginning of the twentieth century, the batons became stylised: the Connétables white ivory with a gold crown, the Centeniers, white ivory with a silver crown and the Constable Officers were black wood with a silver coloured top.<sup>22</sup>

#### LEVEE DE CORPS

An unusual duty that falls to the Centenier is the *Levée de Corps*. If a person were to die suddenly within parish boundaries, it was the customary duty of the Centenier to attend to ensure that there were no suspicious circumstances surrounding the death. By custom, the body could not be moved without the Centenier's permission. Interviews reveal that Centeniers consider attendance at the scene of a sudden death to be one of the most difficult parts of their role, but also one of the most important in that they can provide a solid support network for the family. The Levee is an ancient tradition that has its origin in the process of "L'enditement. The Centenier was required to form a jury by calling upon the services of twelve Jersey born men (sic) to view the body with him. He would need a majority vote that there was no foul play before permitting the removal of the body. Oral testimony from a retired jurat suggests that the practice of summoning a jury was halted in the 1930's following the discovery of a body on the beach at St Aubin. As the Centenier tried to summon a jury, the rising tide continued to float the body up the beach destroying any evidence of foul play. Following this incident, an agreement was reached that the formation of a jury was impractical and probably irrelevant. Practice was changed so that the Centenier was to elicit the permission of the Bailiff to move the body and if there were suspicious circumstances to inform the paid police immediately. Current practice is for the Centenier to contact the States Police and vice versa.<sup>23</sup> The death should then be reported to the Viscount, in his capacity as coroner, who will order a post-mortem examination if considered appropriate. This power is enshrined in the Inquests and Post-mortem Examinations (Jersey) Law 1995 (Article 2).

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<sup>22</sup> The Vingteniers were not entitled to the staff because their duties were the collection of fines, rates and branchage fees.

<sup>23</sup> There is provision for the honorary police in St Saviour to report expected death at the parish hospital directly to the Viscount.

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### *THE OFFICE OF VINGTENIER*

Junior in rank to the Centenier, the Vingtenier was charged with the administration of a vingtaine, a sub-division of the parish for fiscal purposes. (In the parish of St Ouen, these sub-divisions are known as cueillettes). De Gruchy (1957) notes that the fiscal function was first recorded in 1462. The term Vingtenier was probably in some way associated with the surveillance of twenty families or homesteads. The origin however is likely to be military (Kelleher, 1994). The Vingteniers assist the Centeniers by recording proceedings at Parish Hall Enquiry and in certain cases providing useful intelligence about attendees and the circumstances relating to the alleged offences.

### *VISITE DE BRANCHAGE*

The Loi (1914) sur la Voirie requires that landowners and occupiers of property remove overhanging branches, hedges and trees from the public roads and footpaths. The "Visite du Branchage" takes place in each Parish twice a year to ensure that householders with land bordering on public roads have undertaken the 'branchage'. The first Visite is between 1st-15th July and the second is between 1st-15th September. The Connétable, assisted by the members of the Roads Committee and the Centeniers, will visit the all the roads of the parish accompanied by the Vingteniers in their respective vingtaines to ensure that the branchage has been completed. If the branchage has not been completed the occupier will be required to undertake the work and, if it is not carried out, the Parish may arrange for the work to be done and charge the occupier the cost of that work in addition to fines of up to £50 for infractions.

To the uninitiated, the business of the branchage may look like mere hedge trimming. Islanders, on the other hand, understand that it is at once evidence of social solidarity, part of the life of the countryside and a valued link with Jersey's rich and idiosyncratic past (Shipley 2004)

### *THE OFFICE OF CONSTABLES OFFICER*

The Officier de Connétable (CO) is the most junior rank of the Honorary Police. The principal role is to assist the Centenier with the routine administration and policing of the parish including road closures for weddings, funerals and fetes.

### **THE EFFECT OF SOCIAL CHANGE UPON THE HONORARY SYSTEM**

Between the 18<sup>th</sup> and 20<sup>th</sup> Century, only two statutes had affected the Honorary Police.

1804: Loi Sur Les Assemblées Paroissiales (Law relating to the Parish Assembly). This law confirmed the perpetual right of membership of the Parish Assembly even when no longer serving as a Centenier but removed this right from lesser ranks of the Honorary Police. It also gave Vingteniers and Officiers de Connétable the power of arrest within their own vingtaine.

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1840: Loi Sur Les Centeniers et Officiers de Police (Law relating to Centeniers and Police Officers) This law increased the number of officers in each parish and delegated the power of the Centenier to the Vingtenier in cases of absence.

## THE ROYAL COMMISSIONERS

Until the beginning of the nineteenth century the concept and system of honorary policing in Jersey had not been questioned. At this time, there started to be considerable concern with the function of the parish system. This disquiet was principally experienced by English settlers who although economically powerful found it impossible to precipitate change. Their inability to infiltrate Jersey institutions and consequent lack of political influence resulted in calls for reform. When the States refused to act, the newcomers wrote letters of complaint to the Privy Council. As a result, a major investigation into the state of the Criminal Law in Jersey was undertaken by visiting commissioners from England.

In 1847, the First Report into the State of the Criminal Law in the Channel Islands provided the first comprehensive account of the evolution of Jersey Law and examined the history of customary practice. The English Commissioners wrote unfavourably about the state of the law and were particularly critical about criminal processes.

It appears to us that scarcely any part of the criminal proceedings which we have described is such as to suit the present condition of the inhabitants of Jersey (p.xxxviii).

The strongest criticism was reserved for the informal, unprofessional nature of parish organisation and the lack of competence in police duties demonstrated by Centeniers. Described as “almost wholly inoperative as a protective force” the report was disparaging about the role of the Honorary Police and recommended that it should be replaced by a paid force at the earliest opportunity. The Commissioners were critical of every aspect of the role of the Connétable, principally because they could not reconcile the duties with their understanding of the role as it applied to England.

The word ‘constable’ conveys to the English lawyers the idea of an authority much inferior to that which the constable, and, as acting for him, the Centenier, constitutionally possesses. The officers have functions partly resembling those of our police magistrates. They may, in certain cases, take bail from a party arrested where the offence does not amount to felony; they can also bind parties to keep the peace. In numerous cases they assume the exercise of a discretion which in England would not be thought compatible with the duties of a police officer (p xxxix).

Until the construction of parish buildings, investigations into offences would have taken place at the scene of the alleged offence. In cases of public order offences, the focus would have been on prevention rather than punishment. With the sole

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criminal tribunal being the Royal court only the most serious offences would have been referred. The Commissioners Report describes a process of a preliminary investigation which compares to the procedure of a Parish Hall Enquiry as we know it today.

In the case of an assault, the constable considers it part of his duty to inquire whether the assault has not been provoked by libel or slander if that is alleged. In some cases they consider themselves authorized to decide as to whether a Report shall be presented, that is, in effect, whether a prosecution shall go on. We do not consider that any of the latitude of authority arises from usurpation; for it seems clear to us that the whole is in the spirit of the ancient institutions, which imposed on the bas justiciers the duty of searching out crime and committing such offenders as they thought proper objects of prosecution. But we believe that this confusion of functions now produces very serious evils (p xxxix).

The recommendations put forward by the Commissioners were unsurprising. Both men were legal experts from England with limited understanding of the complex relationships and frameworks through which Jersey society had evolved. The Commissioners recommended that all duties connected with the “preservation of the peace and the enforcement of the Criminal Law” be removed from all ranks of the Honorary Police whose primary focus should be towards municipal duties. A particular criticism was that of the political role of the Honorary Police and recommended that the paid force should be independent of the Parish Assembly.

Reaction to the 1847 report was characteristically slow. Despite the gross indictment on the character and composition of the Honorary Police, the customary practices continued unhindered for nine years before any enactment was introduced that had the potential to change the status quo. The Commissioners Report raised a number of constitutional concerns for the Island which were considered to be more important than the application of the law and the implementation of the recommendations in the report.

The principal outcome of the 1847 report into the Criminal Law was a Law to create a paid police force in St Helier and a number of other Laws which established a criminal justice infrastructure:

- Loi (1853) Ordonnant L’organisation D’une Police Salariee a St Helier (Law to create a paid police force in St Helier);
- Loi (1853) Reglant le Nombre des Centeniers de St Helier et de St Martin et Augmentant les Pouvoirs des Officiers de Police (Law to control the number of Centeniers in St Helier and St Martin and to increase the powers of the Police Officers);
- Loi (1853) Modifiant la Practique Dans la Redaction des Depositions en Matieres Criminelle (Law to modify the practise of providing depositions in criminal matters);.

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- Loi (1853) Etablissant une Cour pour le Recouvrement de Menues Dettes ( Law establishing a petty debts court);
  - Loi (1853) Etablissant une Cour pour la Repression des Moindres Delits (Law establishing a Court for the control of minor offences, Police Court, latterly the Magistrates Court );
  - Loi (1853) Modifiant la Procedure de la Cour Royale (Law to modify the procedure of the Royal Court)

It has been suggested that the Laws passed in 1853 may in some way be seen as paying lip service to the Commissioners report (Kelleher 1994). Although the laws were drafted and approved by the Privy Council, the actual implementation and enforcement was not automatic. Policing in the parishes was still very much the province of the Honorary Police. The Law provided for the establishment of a paid police only in St Helier and the uniformed Officers remained under the control of the Connétable. The paid police required the permission of the Connétable before crossing the boundaries into another parish. The real power within the system remained at community level and decisions about investigating offences, charging offenders, offering bail and the customary right of search continued to be made by the Centenier.

In 1861, a further Report prepared by Royal Commissioners reviewed the civil and ecclesiastical functions of the Island. Once again, the Commissioners were critical of the role of the Honorary Police and recommended that the institution be relieved of any duties regarding the maintenance of peace and social order. Once again, the recommendations were ignored and the Honorary Police continued unhindered for the next 73 years.

## **TWENTIETH CENTURY CHALLENGES**

### *RAPPORT AU COMITE DE LA DEFENSE DE L'ILE SUR LA REORGANISATION DE LA POLICE SALARIEE.*

In 1934, the Connétable of St Helier wrote to the Defence Committee expressing his concern at the insufficient number of paid police available to patrol St Helier in an efficient manner (Police Committee Minute Book, 1922-1947). The Defence Committee consequently commissioned a report to investigate two distinct aspects of policing. Firstly to establish whether it was possible or desirable to provide the services of “experts” in the detection of crime and whether their services should be available on an island wide basis, when the Connétables judged that their services were required. Secondly the report was required to examine whether it was expedient, whilst conserving the fundamental principle of the Honorary Police to reorganise the Paid Police in accordance with the current needs of the whole Island.<sup>24</sup> The Report acknowledges the various social changes that had taken place

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<sup>24</sup> This term of reference has been mistranslated in a description published on the States of Jersey Police website which reads: “Examine whether it was expedient to retain the fundamental principal of the honorary system of policing” – this changes the sense dramatically.

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in the Island since the establishment of the paid force in 1853, particularly the rapid growth of new urban areas in hitherto rural parishes. It also addressed the question of state responsibility for the provision of policing as an alternative to reliance on the parish. Whilst acknowledging the “great debt which generations of Jersey men owe to the Members of the Honorary Police who have served, and who are serving the States so well” (p14), it suggested that an Island-wide force was necessary in order to provide a professional source of policing from which all parishes would benefit.

The Committee proposed that the St Helier Paid Police Force should be abolished and replaced with an Island wide force over which the States should have direct control. However, it was also stipulated that Officers from the force would be available to the county parishes only at the request of the Connétable or Centenier of that parish and would be required to act in accordance with their orders within parish boundaries. Perhaps fearful of the rejection suffered by the Royal Commissioners, this Report was explicit in the view that “there should be no interference with the authority of the Constable in his own parish” (p.18).

As a corollary to the principal recommendations, the Report acknowledged that the prosecution of crime should remain the responsibility of the Attorney General and the Honorary Police and further that there should be as “little modification as possible in the manner in which offenders against the criminal law are brought to Justice” (p.21).

In 1935 the States accepted the recommendations in principal but never acted upon them. However, three years later in 1938, the issue was still being discussed and there was much controversy over the proposal, predictably from within the country parishes. (JEP 15.2.1938) Once again the political power of the rural bloc prevailed; the principal was eventually rejected and the recommendations of the 1934 report were never enacted.

## **POLICING DURING THE OCCUPATION**

No written records appear to exist about the operation of the Honorary Police during the occupation years. The experience of Occupation had a profound effect upon the Jersey population and is well documented in a number of local publications (Sanders 2005; Harris 2003)

## **THE MAXWELL AND TARRY REPORT**

During the post-war period, the effectiveness and efficiency of the Honorary Police to maintain social order was again questioned. The Defence Committee commissioned a further report into Police Organisation in Jersey. Unusually, this request was made through the Home Office of HM Government and the Secretary of State appointed a former permanent under-secretary and a HM Inspector of Constabulary to undertake the review.<sup>25</sup> The Defence Committee had requested that the review provide:

Expert advice and assistance as to the best method of reorganising the police system of the Island on a basis adapted to the peculiar conditions especially

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<sup>25</sup> Constitutionally, Jersey shares a relationship with the monarch, not the British government.

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having regard to the Honorary Police system, and sufficient to the present day needs of the Island (Maxwell and Tarry, 1950:5).

In spite of the “peculiar conditions”, Maxwell and Tarry provided a balanced commentary on the role of the Honorary Police in 1950. This report was supportive of honorary service and commended the work done to maintain peace and social order in the parishes. The role of the informal parish inquiry was considered and the role of the Centenier in the adjudication of offences was examined.

As well as assessing the merits of the Honorary Police, Maxwell and Tarry successfully articulated the concerns that had hitherto been hinted at in previous reports about the role of honorary systems in modern societies. They addressed three specific areas: partiality, bias and the influence of parishioners upon the decision-making processes. They concluded that none of these posed a particular threat to effective policing.<sup>26</sup>

We were assured that...strict impartiality is exercised, and that any favouritism would be strongly reprobated both by the honorary officers themselves and by the people who elect them to office (Maxwell and Tarry 1950:12).

The Maxwell and Tarry Report acknowledged the widespread view that the Honorary Police could no longer function as the primary provider of public protection and required the support of a paid force, with power to act on an island-wide basis to pro-actively detect and deter crime.

With regard to the Parish Hall Enquiry, Maxwell and Tarry do not express the same surprise as the 1847 Commissioners that the Centenier has a quasi-magisterial role. They concur with the 1934 report that the decision to prosecute should remain with the Centenier. Their concern is solely with the secrecy surrounding the “sittings” which they assert may lead to unfounded allegations of bias and partiality on the part of the Centenier. They suggest that records should be posted in places that are publicly accessible showing complete details all offenders attending at Parish Hall and those in receipt of on the spot fines. The Report was well received and a year later in 1951 the Paid Police Force (Jersey) Law was enacted to provide paid policing on an Island-wide basis. The new law did not address the role of the Parish Hall Enquiry and the recommendations to make the process more ‘transparent’ were never implemented. Following previous practice, the power to offer bail and charge offenders remained with the Centenier.

Tarry returned to Jersey in 1958 in order to inspect the newly formed Force. He considered that the quality of service was much hampered by the subordinate position of the Paid Police in relation to the Honorary Police. His recommendations for an enhanced role found little political support and with the exception of a name-change to the States’ Police, the status quo was maintained in favour of the honorary service.

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<sup>26</sup> This view is expressed by criminologists in other jurisdictions. Nils Christie, a Norwegian, argues that the close and available proximity of the officers to the community, in which they serve, makes them more vulnerable and therefore less liable to influence. (Christie, 1972)

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A further inspection, some sixteen years later recommended the regularisation of the relationship between the two Police forces. (Jersey Evening Post 1972) These recommendations achieved greater political support and in 1974 the Police Force (Jersey) Law was enacted. This extended the powers of the States' Police to the whole island without requiring the permission of the respective parish Connétables. However, the customary rights to offer bail, charge and search premises without warrant remained with the Centenier. This law confirmed the role of the States' Police as the primary provider of policing and obliged the Honorary Police to call for the assistance of the professional force to deal with "prescribed offences". (See Appendix B ).

#### **CLOTHIER 1(THE REPORT OF THE INDEPENDENT REVIEW BODY ON POLICING SERVICES IN JERSEY)**

Even though the origins of the Honorary Police fade gradually into the remote past, it is nevertheless easy to imagine how such an institution took root. What is remarkable is that it has survived in Jersey alone, to the present day (Clothier, 1996:1).

In 1996 Sir Cecil Clothier chaired a panel of Islanders who were charged with reviewing the policing system to examine whether the powers of both Police Forces were sufficient to combat crime, afford sufficient protection to the public and assess the level of service provided. This would be the first review for a period of forty three years. The panel acknowledged that the economic structure of Jersey had changed considerably during the post war period and that these changes necessitated a more professional approach to policing than could be provided by the Honorary Police alone.

The report concluded that whilst every witness declared that the Honorary Police should remain in existence the "overwhelming burden of evidence ... was that the Honorary Police are outdated in both organisation and method" (Clothier, 1996: 5)

A chapter of the report is dedicated to the functioning of the Parish Hall Enquiry. Acknowledging the antiquity of the institution, the report asserts that the Parish Hall Enquiry "defies classification in any modern legal framework" (Clothier, 1996: 16). The important aspect of informality is acknowledged, but little importance attached to the significance in crime prevention and user satisfaction. A total of eighteen points are made; out of which are formed eight recommendations for reform.

- i. The provision of an information leaflet about the powers of a Centenier at an Enquiry;
- ii. Guidance notes for Centeniers as to proper conduct should be expedited;
- iii. Formal training for Centeniers into the conduct of Parish Hall Enquiries;
- iv. The recording of cautions administered at Parish Hall should be made the subject of substantive law;
- v. Parish Hall Enquiries should be open to the public;
- vi. Centeniers should be prevented from conducting a Parish Hall Enquiry into offences that they have themselves investigated;
- vii. The role and jurisdiction should be extended to empower Centeniers to make findings of guilt;



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- viii. Procedures at Parish Hall Enquiry should be revised, clarified and standardised across the parishes;

As a result of the Review, a working party was established to examine and where possible, implement the recommendations. However, only the first two administrative matters have been implemented.<sup>27</sup> The working party report published in 1997 rejected the recommendations that would change the traditional concept of the Parish Hall Enquiry from an informal inquiry conducted in private to a public hearing. No support was given to the recommendation that Centeniers should be empowered to find guilt because it was generally thought that this would elevate the Parish Hall Enquiry to the status of a Court. The Parish Hall enquiry is not a judicial process. The findings of the working party report clearly articulate the Parish Hall Enquiry as a process that allows a Centenier to establish the facts of a case in an informal, private setting. This Enquiry forms part of the prosecution process and the Centenier is required to decide whether there is sufficient evidence to formulate a charge and whether it would be in the public interest to bring the matter before a court.

As with all previous reports, the Clothier review recommended that the Honorary Police retained their role in the prosecution process. The power to charge offenders, offer bail and the customary right of search without warrant remained the preserve of the Centenier.

## **TWENTY FIRST CENTURY CHALLENGE**

### *THE RUTHERFORD REPORT*

The latest report was conducted by Rutherford and Jameson in 2002. The previous reports had concentrated solely upon policing matters; this review focused upon the criminal justice process and policies of the Island as a whole. The review board was asked to concentrate upon methods of preventing and addressing offending and recidivism. Rutherford consulted widely and concluded that:

The Parish and the process of Parish Hall Enquiries remains a cornerstone of the Island's approach to tackling crime and anti-social behaviour. (Rutherford and Jameson 2002:9)

In spite of the acknowledgement of the primacy of the parish in the context of governance and social control within the Island, the Review notes that an important challenge is to achieve a 'workable' balance between the professional and lay members involved in the criminal justice process.

The Review describes the Parish Hall Enquiry as "one of the most remarkable institutions to have evolved on the Island" and makes a number of recommendations aimed at enhancing the diversionary role of the Parish Hall Enquiry and the development of the role of the Centenier. In Rutherford and Jameson's view, the corollary to the enhancement of the role of Centenier at Parish Hall Enquiry is the abolition of the role in Court and the transfer of the power to charge to an

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<sup>27</sup> The Code on the Decision to Prosecute and Guidance Notes for Centeniers were produced by the Attorney General in 1997

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independent prosecution service. This is one of the most contentious recommendations in the history of the honorary system. In June 2005, the Criminal Justice Policy consultation document eschewed this recommendation on the grounds of financial and human resource implications. The Home Affairs Committee also considered the existing arrangements for prosecution by Centeniers, supplemented by the introduction in 1998 of professional prosecutors for complex cases, to be satisfactory.

A further recommendation is that there should be a specific Parish Hall Enquiry for youths, using lay panel members appointed at **parish** level. The Parish Hall Enquiry is an investigatory process, rather than a judicial body. If this were to change, there may be difficult to comply with the terms of the pending Human Rights (Jersey) Law. Any suggestion that a Centenier or a lay member might adopt a judicial role could compromise the right to a fair trial. This complexity does not occur at present because, as previously stated, the Parish Hall Enquiry is part of the prosecution process rather than any judicial one. Once the Human Rights Law is in force, attendees appearing before an Enquiry would have to accept the level, as well as the principle, of a fine; if they do not, they will have the option of appearing before a Court. The Home Affairs Committee makes the following policy statement regarding Parish Hall Enquiries:

The Committee supports their status as an investigatory rather than a judicial body. To do otherwise would compromise their traditional and valuable role in dealing with offender outside the criminal justice system and in being able to meet the provisions of the Human Rights(Jersey) Law 2000 (Criminal Justice Policy Consultation Document 2005:62)

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### 3. THE OPERATION OF THE HYBRID MODEL OF POLICING IN JERSEY

This section concentrates on the Island's current hybrid model of policing which involves both paid and honorary police. It explores the roles of both in dealing with offenders, how they interact, and the potential for disagreement about roles and responsibilities arising from the existence of thirteen police forces in a small area. We also describe recent attempts to resolve this through a Memorandum of Understanding.

The system of policing in Jersey is very unusual and probably unique. It is unlikely that the social and political conditions that assisted its evolution would have existed elsewhere. In effect, the Island has thirteen independent police forces co-existing within an area of forty-five square miles; each one having a separate chain of command. This unique phenomenon provides significant challenges in operational organisation.

In most other modern states, the state police act as the gate-keepers to the Criminal Justice system. Their role is principally to detect crime, investigate offences and present offenders before an independent Court which will decide guilt or innocence and deliver punishment accordingly. State police organisations also have a role in crime prevention. The policing model in Jersey provides for the Honorary Police to perform some of these functions conjointly with the States' Police and some as the sole provider.

In the absence of any organised island-wide force prior to 1974, it was the norm for parishioners to contact the Honorary Police in their parish for assistance and to investigate crime. This persists in the country parishes where some older people still prefer the intervention of the Centenier to the uniformed presence of a Police Constable in "his fluorescent Ford Escort attracting attention to himself and me". (Research notes)

The oaths cited in La Code de 1771 describe the key activities that modern societies would associate with a policing function but do not use the term 'police' to describe the individual honorary officers. It is unclear how the term 'police' applied in a Jersey context came into being. As already noted, the descriptive terms Connétable, Centenier, Vingtenier and Officier de Connétable are considered to be military in origin (Kelleher 1994; Le Herissier 1972). The term 'police' seemed to be used more frequently after the label was applied by the Royal Commissioners in 1847 in the absence of any other useful comparator apart from the paid police in England.

Over two hundred years later, the 1974 Police Force (Jersey) Law enshrined the duties of a police officer thus:

It shall be the duty of a Police Officer to the best of his powers to cause the peace to be kept and preserved and prevent all offences, whether common law or statutory against the person or property of Her Majesty's subjects and to take all such lawful measures as may be necessary for the purpose of bringing those offenders with all due speed to justice (Article 2).

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## COMMUNITY DIMENSIONS

The attribution of 'historical reasons' to the existence of the hybrid model of policing is not sufficient to explain the complex role it plays in Jersey society. An understanding of the social context in which it operates is important to appreciating how this role has developed over time. Questions regarding the effect that social changes have had upon the Honorary Police, and an examination of the factors which have shaped Honorary Police practice are essential to this understanding (Kelleher 1994, Le Herissier 1974).

In assessing the community dimensions of the role of the police in Jersey, we are faced with finding a useful definition of "community". These definitions are interchangeable. When Honorary Officers talk of their "community" they are referring to the parish and the parishioners. The States' Police meaning is usually aimed to apply to the Island-wide community.

The level of community involvement in policing is higher in Jersey than most other jurisdictions. Police involvement in the community also differs from other areas in that it is controlled both centrally via the state and locally via the parishes. In other jurisdictions it is possible to pinpoint the 'centre' of policing. In Jersey it is impossible to locate because it is decentralised thirteen times. Neither the state, nor the parish, exercise complete control over the provision of policing.

Mawby (1994) suggests that officers with a greater affinity towards the area that they police are more likely to pay attention to the needs and role of the community. Because they are elected by parishioners, the honorary officers tend to have a far greater role within the parishes than the States' Police. In Jersey, everyone lives 'locally' but despite this, paid police officers retain a higher level of anonymity than their honorary counterparts and are therefore less available to the influence of community members. Their names and addresses do not appear in the local phone directory and their identity in Court can be withheld when giving evidence. Their level of community involvement appears to be far lower. Anecdotal evidence would suggest that a very small number of former or serving States' Police Officers serving in an honorary capacity in any of the parishes. (Including procureurs des biens publics, roads inspectors, rates assessors). Until 2003, States' Police Constables were recruited locally in order to comply with the stringent regulations surrounding the local Housing Laws. Locally-based Senior Officers worked their way through the ranks to Chief Officer level. This practice has now ceased and the Chief Officer of Police must be an Officer with a substantial experience at senior management level in a United Kingdom force. The current senior management team of the States' Police are mainly officers with a background of policing in the United Kingdom. The impact that these Officers have had upon the policing policies and procedures is profound. For example, the introduction of a Criminal Justice Unit, a greater focus on intelligence led policing, and the development of a memorandum of understanding between the States and Honorary Police have changed the face of paid policing in Jersey.

In other jurisdictions, the state police are accustomed to being the sole providers of public policing. The fundamental premise of policing in Jersey is the involvement of the community in policing matters. Due to the existence of the Honorary Police,

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States' Police work is constrained by a number of factors that simply do not exist elsewhere. The high level of community involvement in policing matters can cause significant operational difficulty. Research based on interviews with senior managers of the States of Jersey Police suggests that, in some quarters, the Honorary Police are considered to be outdated and an unwelcome intrusion into the business of 'real' policing. There are approximately equal numbers of Honorary Police and States' Police and although not under the direct control of the States Chief of Police, the Honorary Police form a huge reserve of officers to assist both on a day to day basis and in times of crisis. In other jurisdictions, problems of corruption have been raised when there is local influence upon policing matters. In Jersey there are structured mechanisms for making the police accountable. The traditions of honorary service ensure that the parish communities are involved in police decision-making at every level. The structure of election of honorary officers provides a safeguard together with the right of appeal to the Attorney General. Honorary Police are subject to the same formal complaints procedures as States' Police Officers (Police (Complaints and Discipline) (Jersey) Law, 1999).

## **HONORARY POLICE ORGANISATION**

All honorary officers have the power of arrest within parish boundaries. At an operational level, if an Honorary Officer has cause to believe that a 'prescribed offence'<sup>28</sup> has been, or is about to be committed, the officer is obliged by law to request the assistance of the States' Police. Until December 2004, the Connétable and the Centenier were empowered with the customary right of search,<sup>29</sup> the granting of bail and the formal charging of any person with an offence.

The Connétable of each parish has a number of administrative duties and powers such as the granting and withdrawal of permits and licences. These include port d'armes, driving licences, dog permits, scaffolding and hoarding permits, road closure applications and Sunday trading permits. Permission is also required from the Connétable to hold social events within the parish.

The subordinate Honorary Officers perform a variety of policing functions to ensure the smooth running of the parish and ensure the enforcement of the orders of the Connétable. Officers are organised into duty teams, headed by a Centenier who are usually on duty for one week in four. During the duty week, officers are on call twenty four hours per day and may be called upon at any time, day or night to attend incidents occurring within the parish. The duties are varied and include attending at Parish events to assist with the direction of traffic to facilitate social events, parish patrols, investigating road accidents, checks on unoccupied premises, searches for missing persons. Many of the tasks performed serve to improve the quality of life for the parishioners; duties that would seem insignificant and unnecessary to highly-paid, and highly trained officers in professional forces. Box One presents some examples of the duties performed by the parish police forces. For those who know and understand the system, the important feature is the sense that the parish police

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<sup>28</sup> See Appendix Two

<sup>29</sup> This power to search premises was revoked in December 2004 as a result of the enactment of the Police Procedures and Criminal Evidence (Jersey) Law. Searches must now be conducted under warrant.

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'belong' to the parishioners. When a parishioner seeks assistance, it is offered without question. The examples illustrate the everyday common sense approach to community dispute resolution that is made possible by the continued existence of honorary systems.

By contrast, in other jurisdictions, the state police have neither the time, the resources nor the legitimacy to deal with incidents such as these. It would be unthinkable for an Inspector of the States Police to contemplate allocating paid, professional Police Constables to such duties and yet tasks such as these, conducted out of concern and respect of parishioners contribute greatly to the social cohesion of the parish. The capacity for parish people to deal with parish problems at parish level ensures that social control is not ceded to the state. Familiarity in this sense does not breed contempt; it fosters a level of social control that is a vital element of any strategy that aims to build safer communities. The lack of such an infrastructure in the United Kingdom has led to the indiscriminate imposition of Anti-Social Behaviour Orders in an attempt to reduce community disputes. The national newspapers are replete with examples of Anti Social Behaviour Orders aimed at controlling errant livestock, 'problem' families and warring neighbours.

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## **Box One**

### **The Dog Licences**

During an evening visit to a Parish Hall Enquiry, the researcher observed the Duty Centenier present a female Constables Officer with a list of five parishioners who had not renewed their dog licences within the specified period. She was asked to visit their homes that evening to remind them to renew before the end of the month to avoid a financial penalty. The Centenier also asked her to observe the following consideration: she was to remember not to knock on any doors after nine o'clock so as not to unduly alarm the occupants. One parishioner on the list was an elderly lady known to the Centenier. He was particularly concerned that the CO takes special care during this visit.

Centenier: "I know Mrs x, I've seen her some mornings on the common with her dog, but I haven't seen her with the dog for while. I'm wondering whether the dog has died. If it has she will be very upset because she's had him for years. Check the front garden for toys and see if you get barking when you ring. If you don't see any signs of the dog, tread a bit carefully. Only ring once and if you don't get a reply, leave it and I'll go and see her tomorrow".

### **The Deck Chair Attendant**

During a visit to a local beach, a woman was shouted and sworn at by a deck chair attendant. Shaken by the incident, which had occurred in the presence of her young sons, she returned home and immediately reported the incident to the States' Police. The civilian support officer at Police Headquarters informed her that as no offence had been committed, no action would be taken. Dissatisfied with this response, the victim wrote a letter of complaint to the Jersey Tourism who administer the provision of beach facilities and faxed a copy to the duty Centenier. Immediately, the Centenier visited the owners of the deck-chair concession and asked them to accompany him to the beach to speak to the staff member involved. The attendant admitted the incident and apologised for his behaviour. The victim later received a written letter of apology from the attendant, the concessionaire and Jersey Tourism.

### **The Piano**

A couple moved into a semi-detached house in an urban parish. Their neighbour was an accomplished pianist and the early-morning piano-playing was waking the family. Despite repeated requests to limit the piano-playing to daylight hours, the neighbour maintained daily practice justifying the nuisance according to the "I was here first" principle. The dispute soon escalated into a tit for tat battle which involved the couple turning up the volume of their television late at night. The situation was brought to the attention of the Centenier by another neighbour who had witnessed a verbal altercation in the street between the two parties. Wishing to avoid the potential for a more serious breach of the peace, the Centenier visited both neighbours to offer some words of advice. After listening to both sides of the dispute, the Centenier offered a simple but effective solution. He returned later that evening with a Vingtenier and two Constables Officers. By agreement, the piano was removed to the other side of her house against an outside wall where the sound of the piano could not be heard from next door. In return, the couple agreed to lower the television volume to normal levels.

## THE COST OF THE HONORARY POLICE

In 2004 there are approximately 240 serving Honorary Police officers in Jersey. (This number is approximated because a central record is not maintained). The Honorary Police are funded by the ratepayers of the respective parish. Table 3.1 shows the total spends and percentage of the total rate allocated to the Honorary Police by parish in 2000-2001.

Table 3.1

St Helier		St Saviour		St Clement		St Brelade		Grouville		St Peter	
£	%	£	%	£	%	£	%	£	%	£	%
56,243	24	20,913	9	28,925	12	18,900	8	6,476	3	20,830	9

Trinity		St Mary		St Lawrence		St John		St Ouen		St Martin		TOTAL
£	%	£	%	£	%	£	%	£	%	£	%	
8,239	4	9,400	4	15,340	7	9,547	4	11,291	5	27,318	12	<b>233,422</b>

Source: Review of the Relationship between the Parishes and Executive- Phase One -Report, States of Jersey

In the years 2000-2001 the twelve parishes allocated the sum of **£233,422** to maintain the Honorary Police. The majority of the funds in each parish will go towards the provision and maintenance of the parish police car and equipment. This rose to £289,000 in 2003-2004.

In 2002, a report commissioned to investigate the relationship between the parishes and the States of Jersey made the following observations about the role of the Honorary Police and the role within their communities:

The Parish system relies to a large extent on honorary volunteers who receive no financial recompense for the duties they undertake and who are, as a result, helping to keep down the cost of administering government services in the Island. The Honorary Police is probably the best example of this. Were this function to cease, it is without doubt that the States' Police would have to significantly increase its staffing levels at a considerable cost to the Exchequer. From discussions with the Connétables and their officers one cannot help but be struck by their pride in the Parish tradition and their commitment to the local services they currently deliver. The Parish Connétable and his officers are close to their communities and are able to provide a personal and effective local service. It is important that sight is not lost of the value of the Parish within the Island's system of government. (Review of the Relationship between the Parishes and Executive- Phase One – Report, 2002: Paragraph 3.2)



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The report further recommends that in order to keep the cost of policing to a minimum in Jersey it is vital that the honorary system throughout the Island is maintained and protected (paragraph 3.8)<sup>30</sup>

The States of Jersey allocate few funds to the Honorary Police. In 2001 a retired States' Police Inspector was appointed as Honorary Police Training Co-ordinator to deliver a minimum of twenty-six weeks training per annum to Honorary Officers. This post is funded by the Home Affairs Committee which has agreed support for 2004. In future years, the funding of this post will be passed to the ratepayers. In addition, the States Police employ a number of clerical staff to administer the paperwork required to support the Parish Hall Enquiry system. Part of this process includes the deployment of uniformed staff to review evidence and make recommendations to Centeniers. In January 2005, a report was prepared by the States of Jersey Police to assess the cost of the Honorary Police on the States of Jersey Police. (See Appendix H ). This document suggests that the total annual cost of administering the Parish System borne by the States Police is estimated to be: £142.163 per annum. This cost represents less than 1% of the total revenue budget available to the States of Jersey Police. It also includes some services currently provided to the Honorary Police that would still need to be provided if prosecution functions were to be transferred.

## **STATES' POLICE ORGANISATION**

Since the regularisation of the relationship between the two policing bodies in 1974, the States' Police have become the primary provider of 'policing' in the commonly understood usage of the term.

Whilst all States Officers have powers of arrest, they do not have the power to charge a person with an offence. These powers are expressly reserved for the Connétable and the Centenier. States' Police Officers are distributed between various ranks: headed by a Chief Officer. As well as general policing duties, the States' Police are also required to provide a number of specialist services such as drug investigation, family protection, crime prevention, anti-terrorism and scenes of crime investigation. Since 1974 the States' Police are (usually) the first port of call in an emergency<sup>31</sup>. The response that a member of the public receives to a call depends upon the nature of the crime reported and the availability of uniformed officers.

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<sup>30</sup> The UK government introduced community support officers into London boroughs to combat anti-social behaviour. These offices start on a salary of £14,793 plus a weekend working allowance (Metropolitan Police Authority website 2005)

<sup>31</sup> It is still common for elderly residents in county parishes to call the Centenier to attend in the first instance. Prior to 1974, the States' Police were permitted to operate in the rural parishes only with the express permission of the Connétable.

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## **THE COST OF THE STATES' POLICE**

Paid policing services are provided for the States of Jersey at a cost of £20,300,100 (net revenue expenditure, 2004). A total of 241 paid officers provide the Island with a comprehensive policing service (States of Jersey Police Annual Report, 2004). This will reduce to £19.85 million in 2005.

## **HONORARY AND STATES' POLICE LIAISON**

Article 7 of the Police Force (Jersey) Law 1974, provides that the Chief Officer shall inform a Connétable as soon as may be of the details of any occurrence in his Parish which required action by the Force and of any investigations which are being conducted by the Force in his [sic] Parish. Similarly, the Connétable of each Parish is obliged to inform the Chief Officer of any occurrence (other than of a trivial nature) which required action by the Honorary Police. To facilitate good communication Duty Centeniers are invited to the weekly tasking meeting at Police Headquarters and there is a quarterly Honorary Police Liaison group meeting between a representative of the Honorary Police Association and a Superintendent of the States' Police.

## **CONSENSUS**

Not only is there a lack of consensus between States and Honorary Police, there is evidence of a lack of agreement between parishes. This leads to considerable frustration in the area of policy-making and implementation when the police authority cannot exercise any influence whatsoever over the practice of a particular parish. Whilst the States' Police may aspire to English national standards of practice, the parish structure tends to decentralize power and influence, making the imposition of uniformity and centralized systems difficult. Political autonomy, both at parish and Island level means that community involvement in policy and practice cannot be underestimated.

## **THE MEMORANDUM OF UNDERSTANDING**

The interim report into Parish Hall practice (Raynor and Miles, 2001) suggested that there was no full agreement about the respective roles, responsibilities and functions between the States Police and the Honorary Police.

Relations between the two occasionally have the flavour of a territorial dispute and this is not consistent with the need for legitimate authorities to be seen to work harmoniously (p.14)

Following discussions between the Honorary Police, States Police, Home Affairs and the Law Officers Department, a Memorandum of Understanding has been drafted and agreed by all parties. This document seeks to elicit a workable agreement that would preserve the unique nature of the rights and responsibilities of the Honorary Police whilst ensuring the provision of an effective policing solution across the island. The full text is reproduced in Appendix E. In order to formalise and clarify the role of the two forces, the guidance in the document attempts to define the 'liabilities' of the

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States Police, the Home Affairs Committee and the Honorary Police. The document acknowledges that members of the public who require a service from the police are able to contact the Parish Hall, the Centenier or the States Police and sets out guidelines to follow for the control room. When despatching an Officer to deal with an incident, the Control Room staff have the option of allocating a States Officer or an Honorary Officer according to specified criteria. States Police are required to provide first response to incidents where there is:

- An immediate threat to public safety
- Injury
- Specialist investigation required
- Unusual political or media sensitivities

The deployment of Honorary Officers by way of first response is considered appropriate for:

- Non-injury road traffic accidents
- Noisy parties
- Neighbour disputes
- Minor Public Disorder
- Loose or escaped animals
- Minor Larceny

#### **THE ROLE OF THE POLICE AUTHORITY**

In 1996 the first Clothier report recommended the creation of an independent body to form a Police Authority, responsible to the Defence Committee (now known as the Home Affairs Committee) to ensure that the island is provided with an effective policing service (Clothier, 1996). This recommendation was examined and considered to be appropriate by the working party on policing (Wavell et al, 1997). In formulating their decisions, the working party considered the composition of a typical United Kingdom authority of 17 members comprising 9 politicians and 8 independent members. The recommendations for the Jersey Authority was for a body of four states members from the Home Affairs Committee ( who are not Connétables) , two Connétables from the Comité des Connétables and three independent candidates to be selected through an open procedure involving both the Home Affairs Committee and the Attorney General. Appointments would be made by the States. The chairman (sic) would be an Independent member. The structure considered by the working party was the English tripartite framework of Chief Constable, the Police Authority and the Home Office. The working party considered this model to be relevant to Jersey with one caveat.

providing the necessary adaptations are made to meet local requirements; such as having two police services (Wavell et. al ,1997 : 7).

The working party did not consider which adaptations were likely to have to be made although they did concede that:

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This additional dimension will widen and complicate the commitment as the two services operate on common territory with a considerable measure of independence (Wavell et. al,1997 : 7).

As the first examination of Island-wide policing since the enactment of the Police Force (Jersey) Law in 1974, the Clothier One Report aimed clearly to create a body that could both modernise policing practice in Jersey and co-ordinate the policing strategies and resources across all thirteen forces. The Review Body acknowledged that this task would not be straightforward and that the creation of a “bespoke operational framework” for Jersey would be a challenging prospect. If the Jersey Police Authority was to follow the example of the United Kingdom, there would be potential for considerable confusion.

The working party state that the “annual planning programme is the instrument by which Police Authority justify their resources”. The programme is designed to monitor and measure the delivery to the public of police services. Appendix D of the Report sets out the procedure of the annual planning cycle. Some elements are immediately problematic. The setting of police objectives and performance indicators would be particularly difficult, given the organisational norms and expectations of the Honorary Police. The essence of honorary service is its ‘honorariness’, the sense of serving, helping, restoring the Parish and the parishioners. It is difficult to see how these qualities can be measured in order to formulate a business plan in order to set a budget and deliver a plan. Generations of ratepayers have ensured that the parish police continue to be adequately funded and resourced for parish duties.

In 2002, the Rutherford review noted that while a shadow Jersey Police Authority has been established, very little progress has been made in either the application of a more integrated model of policing or the establishment of a strong influential Police Authority able to achieve the vision of a modern and co-ordinated policing strategy across both the States and the Honorary Police forces.

Five years later the Police Authority has achieved very little success. This is because to all extents and purposes, the Authority exists in name only. It still lacks a statutory basis, no chair has been appointed and it has no staff. It has been looked after in its current, rather precarious, form by the Home Affairs Department (Rutherford and Jameson 2002: 96).

Rutherford and Jameson do not comment on the structure of the Police Authority; however it would seem that any organisation would require a six-part structure to take into account the unique constitutional and political situation of Jersey. Any structure would necessarily incorporate the Police Authority, the Chief Police Officer and the Home Affairs Committee but would also need the representation of the Attorney General, the Parish and the Honorary Police in order to reflect the complex interdependencies inherent in the Jersey system.

Rutherford highlights the urgency for the ‘revitalisation’ of the Police Authority by drawing attention to the legislative changes that will impact significantly upon both forces. The introduction of the Police Powers and Criminal Evidence (Jersey) Law (PPCE) and the Human Rights (Jersey) Law will require a comprehensive re-assessment of practice to ensure effectiveness and efficiency within modern

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statutory frameworks that have hitherto been of minimal importance in the Jersey model.

In July 2003, a report was presented to the States by the Home Affairs Committee to address the “impasse” that had developed in the establishment of the Police Authority. The multiple factors that have influenced the decisions about the Police Authority and the options regarding future paths are outlined therein. The ‘impasse’ is further complicated by the uncertain position of the Connétables in the future ministerial government.

#### **STATES’ POLICE ACCOUNTABILITY**

Ultimately, the States’ Police must work within the framework of the law and are accountable to the Home Affairs Committee, a body of democratically elected politicians. The Island does have a Police Authority but the function is currently not clear and has been described as “ineffectual” in the 2002 Rutherford Review of the Criminal Justice Process in Jersey.

The States’ Police are therefore currently dependent for funding and policy direction on the Home Affairs Committee. The close proximity of the State Police to their political masters can be a source of frustration.

#### **HONORARY POLICE ACCOUNTABILITY**

The Honorary Police model is one of paternalism: the Connétables act in what are understood to be the best interests of the parishioners. In contrast to other jurisdictions there is no consensus that responsibility for policing stays with the State and even less acceptance among a significant bloc, that the Honorary Police should be professionally organised with clearly defined roles and responsibilities. At island level, Honorary Officers are ultimately accountable to the Attorney General who is the titular head of the Honorary Police. At individual parish level, honorary officers are accountable to the parishioners and the *assemblées paroissales*. As part of an honorary body, it is difficult to compel members to perform any task. Whilst certain standards of conduct are expected, there is nothing contractual to oblige officers to undertake training, performance review or appraisal. The Centeniers Association assert that there is an accepted need to have a basic level of training and there is discussion in progress about the provision of accreditation for officers who have undertaken training in specific areas. All officers of the Honorary Police are expected to abide by a disciplinary code specified by the Police (Complaints and Discipline) (Jersey) 1999, Law. Complaints against the Honorary Police may be investigated by an independent Police Complaints Authority comprising lay members appointed by the Island’s government. The parish police belong to the parishioners and as long as members of the *assemblées paroissales* continue to elect them, and the Attorney General agrees to approve their appointment, then tenure is guaranteed.

## PROGRESS TOWARDS AN ISLAND-WIDE APPROACH TOWARDS POLICING

A major recommendation of the Rutherford review was for an island-wide approach to policing. It is difficult to see how the thirteen forces can provide integration given the diametrically opposed philosophies that underpin their existence. Mawby construes the 'police' as "an agency which can be distinguished in terms of its legitimacy, its structure and its function" (1990:3). These headings provide a useful framework within which to describe and evaluate the role of the Jersey model of twenty-first century policing. In Jersey, these elements necessarily function on two levels, on a parish level and on an island-wide basis. The following table highlights the divergent nature of the Jersey model.

**Table 3.2**

	Honorary Police	States' Police
<b>Legitimacy</b>	L'Assemblée Paroissale based on customary law and practice. Unpaid volunteers elected by parishioners swear an oath of office before the Royal Court	States of Jersey under the direct control of the Home Affairs Committee. Officers are employed by the state. Powers based on statutory law. Oath of office is sworn before the Royal Court
<b>Structure</b>	Decentralised 12 times – organised on a parish basis. Organisational expectations are more informal and not prescribed by written rules and regulations.	Operate on an Island-wide basis. Organised centrally but operates locally within the 12 parishes. Organisational and operational expectations relating to patterns and conditions of employment and performance management. Officers are expected to be professional and specialised.
<b>Function</b>	Maintenance of peace and social order in the parishes. Investigate minor crime. Centeniers conduct Parish Hall Enquiries and utilise power to offer bail and charge offenders to appear before the Magistrates Court.	Investigation of offences. Prevention and deterrence of crime. Police community according to policing plan.
<b>Accountability</b>	The Parish – parishioners and rate-payers	The States of Jersey (employers)

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## 4. THE PARISH HALL ENQUIRY

This section describes the Parish Hall Enquiry itself: its history, procedures and powers; the options available to it in dealing with a case; and the role of the Centenier in the process. The section concludes with a short illustrative case study of a typical Enquiry.

Parish Hall Enquiry refers to the process of preliminary investigation conducted by a Centenier to ascertain whether there is sufficient evidence to suggest that an offence has been committed and whether or not it is in the public interest to prosecute the alleged offender for that offence. In all but the most serious offences<sup>32</sup>, offenders will be invited to attend at a Parish Hall Enquiry to have the circumstances of the offences reviewed by the Centenier. The Parish Hall Enquiry has no legal definition and it is *not* a Court. Enquiries are usually held in the evening, attendance is voluntary and the attendee can at any time request that the case be heard before the Magistrate. If a person warned to attend at Parish Hall Enquiry does not attend, the Centenier may choose to issue a summons to appear before the Magistrate unless the offence is considered to be so trivial as to be a waste of court time.

The precise origins of the Parish Hall Enquiry are unclear. The term “Parish Hall Enquiry” is a misnomer in that enquiries made by the Centenier can be made anywhere within the boundaries of the Parish and at a “designated place” prescribed by Law<sup>33</sup>. “Parish Hall” enquiries may be conducted on the roadside or in parishioners’ homes. Reference to the Parish Halls came only after their respective construction in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, when alleged offenders would be warned to attend the Parish Hall to see the Centenier on the same night as the alleged offence took place.

Until the mid nineteenth century the process of dealing with offenders at parish level within the community was not considered to be unusual nor undesirable. As discussed previously in Section 2, the Royal Commissioners sought to erode the power of the parish and recommended the introduction of centralised control mechanisms. Raising questions about the propriety of a system with no legal framework, they called for the abolition of all honorary policing functions including the Centenier’s Enquiry. Contrasting the honorary systems with their own professional processes led them to suggest that informal structures were riddled with partiality and bias.

Later reports acknowledged the primacy of the parish. These reports do not consider Jersey in terms of a single island-wide community, rather twelve separate “bubbles of governance” (Shearing, 2001); each having considerable discretion to shape and control the events that take place within parish boundaries. Following successive failures to implement recommendations, the authors of the later reports would have been acutely aware of the need to situate potential reforms within a framework that

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<sup>32</sup> For example: serious offences of violence, drug importation and supply

<sup>33</sup> Police (Jersey) Law 1974 “designated place” refers to the States’ Police Station

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fitted within the honorary traditions. If not, as Kelleher so aptly puts it; the country would ‘triumph’ and anything that threatened the sacred institution of honorary service would be rejected by the powerful rural bloc (Kelleher, 1994).

Since 1934, the reports differ in that they have mostly been commissioned as a response to concerns raised by the States’ Police to successive Defence Committees<sup>34</sup>, prompted by biennial inspections conducted by English Inspectors of Constabulary who may have neither understood nor appreciated the finer points of the honorary systems. These concerns seem to be based upon the operational difficulties presented by the existence of 13 police forces co-existing within a 45 square mile area. The potential benefits of community involvement in dispute resolution were not considered.

The private, informal nature of the Parish Hall Enquiry has changed little since its evolution in medieval times. Despite reports and recommendations for reform, the Parish Hall Enquiry continued along traditional lines. The process neither affected, nor had been affected by social change in any tangible sense. The fact that it had no definition in law or clear role vis a vis court diversion did not seem to be of great importance.

#### **CURRENT PARISH HALL ENQUIRY PRACTICE**

Following the Clothier 1 report in 1996, Guidance Notes for Centeniers at Parish Hall Enquiries were prepared by the Attorney General. An analysis of adherence to this guidance is provided in a later chapter of this report.

The Guidance Notes state that the purpose of the Enquiry is for the Centenier to decide:

1. Whether there is sufficient evidence to justify a charge
2. If so, whether it is in the public interest to prosecute or whether the matter can be dealt with in some other way at the Enquiry; and
3. If the matter is to be dealt with at the Enquiry, the appropriate method of disposal.

The Enquiry is not a judicial process. It is a private hearing and it is a matter for the discretion of the Centenier as to whether an attendee may be accompanied by any other person. The results are not published in the widely read local newspaper. The Criminal Justice Unit at States’ Police Headquarters records the outcome of the Enquiry. This does not constitute a criminal conviction, but is regarded as a “Parish Hall Sanction”. This record is produced at subsequent Enquiries and Court appearances within the Island. There is no requirement to declare these sanctions on job applications or visa requests. The Rehabilitation of Offenders (Jersey) Law does not apply to sanctions meted at Parish Hall because they are not recognised as criminal convictions.

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<sup>34</sup> The political body responsible for the provision of paid policing services



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Most cases appear before the Centenier on a reference from the States of Jersey Police but other Honorary Officers of the parish, Customs and Excise Officers, Agriculture and Fisheries Officials and Education Welfare Officers and even members of the public can refer alleged offenders to the Centenier for Enquiry.

### **THE ROLE OF THE CENTENIER AT PARISH HALL ENQUIRY**

The Centenier is required to consider the facts of each case and decide whether or not it is in the public interest to prosecute the offender. The Centenier outlines the facts of the case as they have been presented and the attendee is asked whether or not he/she agrees with their interpretation. If the attendee does not agree that the facts of the case are an accurate representation of the incident, the Centenier is required to formally charge the attendee and remand the case to the Magistrate's Court for trial. The Centenier is not empowered to decide guilt.

In arriving at a decision, the Centenier is to have regard to the guidelines issued by the Attorney General contained in the Code on the Decision to Prosecute. (Appendices E and F respectively)

Observation of the process of Parish Hall Enquiries would suggest that in usual circumstances, every attempt is made to prevent the attendee from entering the formal system (unless of course, they wish to do so). The Parish Hall Enquiry is a participatory forum and there is much negotiation between participants about the circumstances of the offence and the appropriate sanction.

The Centenier has a number of options available:

No further action – The Centenier may offer “words of advice” to the attendee and no further action is taken regarding the offence. There is often an element of reparation or restoration attached including letters of apology or compensation to a victim. The Centenier is not empowered to order compensation, simply request it.<sup>35</sup>

Written Caution - The Centenier may issue a written caution as an alternative to prosecution when, with reference to the Code on the Decision to Prosecute, it is decided that it is not in the public interest to bring a charge.

Financial penalties – Where the offence is admitted, the Centenier may impose fines, with the consent of the attendee up to £100 for certain statutory offences.

Voluntary Supervision – The Centenier may invite attendees to place themselves under the supervision of either the Probation Service or the Alcohol and Drug Service on a voluntary basis. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the attendee breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute.

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<sup>35</sup> The Centenier has no role in the administration of civil justice between an alleged offender and a victim. The Centenier is limited to taking into account the offer of compensation in reaching his decision about a particular sanction.

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The Pitstop scheme - The Centenier may use this scheme for young people who have committed a motorcycle motoring offence. The scheme aims to teach young people to ride motorcycles safely and responsibly. Successful completion of this scheme usually results in a written caution as an alternative to prosecution.

Deferred Decision - The Centenier may defer the decision to prosecute to a later date. The attendee is invited to enter into a voluntary contract with the Centenier to stay out of further trouble for a fixed period of time. The Centenier may also recommend other elements such as a curfew or reparation to the victim. At the conclusion of the deferment period, the Centenier is required to make a decision as to whether prosecution is appropriate. He may use the behaviour demonstrated by the attendee during the deferment period to inform this decision.

Charge and bail for a Court appearance. – The most important power that a Centenier has is to formally charge and bail an attendee appear before the Magistrate in the relevant Court. Unlike the position in other jurisdictions, the States of Jersey Police do not have this power.<sup>36</sup>

It is important to appreciate that all the above options, except the last, are consensual i.e. they can only be adopted with the agreement of the attendee. It is equally important to realise that the Attorney General reserves the right either to bring prosecutions directly and also has the statutory power to direct a Centenier to bring a charge where for whatever reason; the Centenier had chosen not to prosecute.

The process and informality of a typical Parish Hall Enquiry for a motoring offence is best illustrated by means of an example: See Box 2

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<sup>36</sup> See Art.3(2) Police Force( Jersey ) Law 1974

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## Box 2 (Extract)

### Circumstances of the offences

An inexperienced driver, late at night, misjudged a corner and crashed into a wall causing considerable damage. Uninjured, but shaken by the incident, the driver allowed a passenger in the car to reverse the vehicle and drive home. A witness to the accident reported the registration number to the States' Police who invited the driver to attend the States' Police Station the following day with driving licence and insurance documents. During interview, the Police Constable gathered sufficient evidence to report the driver for the following offences:

Driving without due care and attention,

Permitting a person with no insurance to drive a motor vehicle,

Failing to stop and report an accident.

After interview the driver was invited to attend a Parish Hall Enquiry in the parish where the offences occurred.

### Process and Outcome

The paperwork was processed by the States' Police and passed to the Duty *Centenier*. The recommendation from the States' Police was that the driver should be charged with all the reported offences and that the passenger should be similarly charged with driving without insurance and failing to stop and report an accident.

The driver was accompanied to the Enquiry by a parent, the passenger and the passenger's mother. The driver was visibly anxious and upset and expressed considerable remorse. The driver accepted travelling too fast to safely round the corner. The driver and the passenger apologised for their careless actions. The driver and the parent also explained that they had visited the victim to apologise and offer to repair the damage. The *Centenier* had verified this information. Similarly, the passenger accepted that in the heat of the moment, he had panicked. He knew he wasn't insured to drive the car but felt that the driver was so shocked he just wanted to get home as soon as possible. Both apologised for leaving the scene without contacting the Police.

The *Centenier* was sympathetic to the circumstances.

"I know that bend, and it is awful. I am just glad that neither of you were hurt. I am very pleased that you have sorted out the wall with [the victim]. Well done for doing that. The Police recommend that I charge you for court, but I don't really want to do that. You have learned your lesson the hard way. If you are prepared to accept a written caution, I am happy to deal with it here and that will be the end of it. You can put it all behind you now and stop worrying."

Apart from the attention to the details of the offences, the *Centenier* was also interested in the circumstances of the attendees. As the cautions were written, the *Centenier* chatted comfortably about places of work, achievements etc.

Cent: "I see you are working for [xx]. That's a good job, are you doing the Certificate in [xx]?"

Driver: "Yes, I'm at college, two nights a week. It's a good course, hard, but it will be worth it."

Cent: "Good for you. Keep it up".

[Pause]

Cent: "Right, that's it then. Pin that in a prominent place [the caution slip]. All done now. In the nicest possible way, I hope I never see you again!"

The *Centenier* shook hands with all present and wished them well.

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## Part II

# EVALUATION OF THE EFFECTIVENESS OF THE PARISH HALL ENQUIRY

## 5. RESEARCH METHODS

The researchers employed a number of methods during this project:

- An historical study of Jersey documents relating to the Honorary System;
- A review of international research material relating to traditional, informal and restorative justice;
- Participant observation involving data collection through the course of everyday social interaction with all concerned with the Parish Hall Enquiry System;
- A structured observational study of 51 Parish Hall Enquiries;
- Interviews with 48 Centeniers;
- Interviews with 10 Officers of the States Police;
- Interviews with the Police Legal Adviser, the Magistrate and a Jurat;
- Interviews with Honorary Police Liaison Officers, the Director of Home Affairs, the Deputy Agent of the Impôts, the Educational Welfare Service and Probation Officers;
- The examination of written feedback and interviews with 46 attendees at Parish Hall Enquiries;
- The examination of written feedback and interviews with 12 victims of offences that were dealt with via the Enquiry system;
- The examination of re-conviction and re-sanctioning data from the States Police and the Probation Service;
- Face to face or telephone interviews with 20 attendees at Parish Hall Enquiry

In order to access adult attendees at parish hall, 300 leaflets requesting interview were included with Notices of Intended Prosecution during the spring of 2003. This elicited a very poor response from attendees, with only ten respondents. This tends to suggest that attendees are satisfied with their experience at the Parish Hall. Information from the Office of the Attorney General would suggest that very few complaints are received.

In an attempt to extend the sample, the researcher also handed out leaflets at Parish Halls and placed requests for interview on the States of Jersey intranet site. This elicited a further ten responses. This poor response is not untypical of Jersey and researchers in other areas encounter similar problems in attracting research subjects. An explanation of the reasons for this apparent apathy is not within the remit of this research but may prove interesting. The findings referred to here then, are based on face to face interviews with ten respondents, telephone conversations with a further ten attendees, informal conversations with attendees before and after enquiries and an analysis of questionnaires completed by attendees who attended at parish hall enquiry and subsequent victim offender mediation.

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In addition to the observational study, a large amount of data has been collected through a comprehensive evaluation by Miles of the Victim Offender Mediation scheme which in practice is fed by the Parish Hall Enquiry System. This information is presented in a later section of the report. The use of multiple methods means that data from one source can be used to illuminate another thereby promoting reliability and validity.

**6. THE ROLE OF A CENTENIER**

This section is based on the interviews carried out with a number of Centeniers. It discusses their demographic and occupational profile and their views about their role in Parish Hall Enquiries. In particular, we explore their views about the usefulness of local knowledge, the use of discretion, and the opportunities presented by the potential flexibility of the Enquiry process.

The Centenier is the main player in the Parish Hall Enquiry system. For the purposes of this report, 48 Centeniers were interviewed to acquire a broad understanding of practice across the parishes. The Chefs de Police (the senior Centeniers) were the first to be interviewed in order to compare and evaluate levels of commonality and difference within parishes of the perceived role and function of the honorary police and the operation of parish hall enquiries within their respective parishes.

Lasting between one and a half and two hours, each interview gathered qualitative information and biographical data. The interviews were semi-structured around a set of key themes including:

- The role of the Centenier within the parish in the maintenance of peace and social order
- The exercise of discretion in decision making
- The relationship with other key players in the parish hall enquiry system
- The identification of challenges to the practice of being a Centenier and to the Parish Hall Enquiry System

**BIOGRAPHICAL DATA**

The stereotypical picture of a Centenier is that of a middle-aged male, Jersey-born, dyed-in-the-wool farmer with a long family tradition of honorary service. The following biographical information gathered from interviews with Centeniers suggests that a 21<sup>st</sup> Century Centenier is somewhat different!

**Table 6.1  
Biographical Data**

	Frequency	Percent
Born in Jersey	17	35
Raised in Jersey	20	42
Female	3	6
Aged Over 50	26	54
Previous Honorary Service as Vingtenier or Constable's Officer	43	90
Entered Honorary Police directly as Centenier	5	10
Family Tradition of Honorary Service	15	31
Employed by Employer	14	29
Self-Employed	25	52
Retired	9	19

Table 6.1 shows that 35% of Centeniers interviewed were Jersey born with 42% being raised in Jersey. Whereas 90% of interviewees had served previously as either a Vingtenier or a Constable's Officer, only 31% stated that they had a family

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tradition of honorary service. Very few officers entered directly as a Centenier with no previous exposure to parish policing. (10%)

Most Centeniers (52%) were self-employed in a variety of occupations:

**Table 6.2**  
**Occupation of Self-Employed Centeniers**

Agriculture/Horticulture Civil Emergency Management Construction Trade Estate Agent Firearms Dealer Management Accountant Notary Public Property Developer Quantity Surveyor Taxi Driver Wildlife Management Consultant

A further 9 (19%) of Centeniers were retired, once again from a variety of occupations:

**Table 6.3**  
**Previous Occupation of Retired Centeniers**

Airline Pilot Compliance Manager Prison Officer English Solicitor School Teacher Air Traffic Controller Banker

The remaining 14 Centeniers (30%) interviewed were employed by an employer:

**Table 6.4  
Occupation of Centeniers Employed by an Employer**

Compliance Management
Banking
Nursing
Civil Service
Caretaking
Conveyancing
Residential Home Management
Trade Union Organisation
IT Management
Trust and Company Management

It is worth noting that over half (57%) of Centeniers employed by an employer are working in the finance industry, mainly in compliance, trust and general banking.

**Table 6.5  
Number of Centenier Interviewed**

<b>Parish</b>	<b>Centeniers Interviewed</b>
Grouville	4
St Brelade	4
St Clement	4
St Helier	6
St John	3
St Lawrence	5
St Martin	3
St Mary	4
St Ouen	3
St Peter	4
St Saviour	5
Trinity	3
Total	48

The interviews with Centeniers were supplemented by observation of practice at Parish Hall Enquiry and analysis of written responses to Victim Offender Mediation questionnaires. This information will be presented in later sections of the report.



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## CENTENIERS AND DISCRETION IN THE PARISH HALL ENQUIRY

If the Connétables are the fathers of the parish, the Centeniers are the uncles. (Centenier – suburban parish)

All Centeniers reported that their desire to serve the community prompted them to join the honorary police. There is an important distinction to make here between “community” and “parish”. It is interesting to note that the parish rather than the wider island community is considered to be the focus of their support. With the exception of one Centenier who operated in St Helier by virtue of “mandataire” status,<sup>37</sup> all interviewees were both resident and rate-payer in the parish where they served. This parochial insularity reflects the unusual cultural perspective towards “community” that has developed in Jersey as a result of the independence of the parish from central island control. Despite a small geographical area, residents are more inclined to identify with their particular parish of residence rather than any centralised notion of community.

I am a staunch believer in the honorary system. I live in the parish but I work outside. I enjoy life in the parish and felt that I could give back something and help maintain the peace and quiet. I am a traditionalist and this is as close to the real Jersey as it gets – the honorary system is important (Centenier with four years service).

Whereas ambiguity is present in other areas, Centeniers are unequivocal in their expressions of support for the parish:

Why did I become a Centenier? That’s easy. I was born in the parish, my parish. It is a community duty for me to serve. My job as a Centenier is to help my parishioners (Centenier with fourteen years service and family history of honorary service).

The community focus of these responses is clear. In many modern jurisdictions, this sense of community has all but disappeared. Increases in crime and social unrest can be attributed to the “death” of community through the disintegration of informal support networks and the reduced dependence upon extended family and community groups. Whilst Jersey has suffered this decline to some extent, multiple relationships of interdependency exist and remain strong including the presence of extended family, residential immobility, low urbanization and strong religious influence. The main focus for these relationships is the parish.

This insularity is further illustrated by a question about the physical location of parish hall enquiries. Centeniers were asked to comment on the (fictitious) possibility that Parish Hall Enquiries would be heard at a central location in St Helier. Centeniers would be required to hear enquiries for offences that had been committed in other parishes. Only one Centenier expresses the opinion that such a centralised system was desirable. All other interviewees noted that the lack of parish knowledge and the potential loss of local parish identity would be a significant barrier.

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<sup>37</sup> Mandataire refers to people who do not reside in the parish of St Helier but who are representatives of a company that is registered for rating purposes within the parish.

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The whole idea of the honorary police is that it is our community; a centralised system might make it easier for the States Police to administer but it would be impersonal, a factory conveyor belt of people. Parochial affairs should stay within the parish. Hold them all in town? What an appalling idea! (Centenier with six years service).

## **THE ROLE OF LOCAL KNOWLEDGE IN UNDERSTANDING THE CONTEXT OF OFFENDING**

The Honorary police claim to have an intimate knowledge of the community in which they operate. Community members know and understand the idiosyncratic behaviour of certain citizens and eccentricity is accommodated. According to 2001 census records, the Jersey community comprises fewer citizens who are locally born and educated than ever before. Census data show that one-third of the Island population live in St Helier. The adjacent parishes of St Saviour and St Clement have a population density of four times the average of the other parishes and although they represent one fifth of the Island's land area, they accommodate more than half of the population. It is unlikely therefore that the Honorary Police have the intimate knowledge of their parish community as they did in years gone by, particularly in the densely populated urban parishes.

The practice of the application of local knowledge in decision-making at enquiries has been observed; being noted as particularly pertinent to the decisions made where road traffic offences have been committed. The satisfaction of the parties seems to rest upon an accurate understanding of the ingredients of the offence. More particularly, it was not the offence itself that precipitated discussion, but the context of the offence.

## **ONE SIZE DOES NOT FIT ALL**

The States Police perceive that a centralised location would maximise the strengths of the Enquiry system by introducing a standard format enquiry. One officer insisted that the Parish Hall Enquiry system perpetuated a 'postcode lottery' citing inconsistency of sanction as a significant weakness. The States Police would prefer to see a matrix to standardise outcomes using a list of 'gravity factors' along the lines of those issued to the Association of Chief Police Officers in the United Kingdom by the Home Office. They perceive that this would greatly improve public perception of the system and go some way to controlling the discretionary powers of the Centenier. These guidelines would encourage greater consistency in decision-making across the parishes. They assert that greater consistency would foster a higher level of confidence in the system. Assessment would be based on the seriousness of the offence and the number of previous parish hall sanctions or Court convictions. In practice, the Decision Sergeant in the Criminal Justice Unit is already operating along the lines of a similar matrix using similar criteria to formulate a recommendation for the Centenier. Concern has been expressed by the States Police that Centeniers do not always follow the recommendations. Centeniers are required to record their decisions in writing and return a pro-forma to the criminal justice unit at police headquarters for recording in the OPEN database. If the States Police do not agree with a decision, they are able to refer the matter to the Attorney-General for consideration.

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The trend for “consistency” can be interpreted as a desire for centralisation. The erosion of discretion of Centeniers is part of this trend. Centralisation would take offenders away from the community they offend against. The risk is that any shift towards centralisation, from parish based administration of justice to a central state-run service would result in more punitive measures and a consequent increase in the number of people charged to court. This would not only impact upon the social and cultural customary practices of Jersey society but also impact heavily upon the financial resources required to administer a more formalized system.

This desire for centralisation might also be seen as an attempt to control, monitor or restrain the extraordinary power of the Centeniers and the Connétables of the respective parish. The maintenance and development of informal social networks is important. Knowing one's neighbour ensures that primary community control is maintained rather than resort to state control (Braithwaite 1989). These networks are very effective at building safer communities; knowing who to ask for help, knowing that assistance will be offered, without question, any time of the day or night. These are neither nostalgic nor romantic ideals. In other jurisdictions, creeping damage is being done to social systems capable of exerting informal control over behaviour. In Jersey the honorary systems of support and peacekeeping remain relevant to a significant number of the population.

Critics of informal systems such as the Parish Hall Enquiry argue that individualized outcomes should be proportional and consistent. The context of offending however is often conveniently ignored in attempts to introduce consistency into informal systems (Braithwaite 2002). Roche argues that “proportionality and consistency belong to a punishment paradigm that restorative justice disavows” (2003:38). Restorative justice advocates would argue that participant satisfaction is a more appropriate measure (McEvoy et al. 2002: 469 cited in Roche 2003: 38).

Agreements are incomparable both with other agreements and traditional court-imposed sentences as they represent the result of the negotiations of a unique combination of people affected by a unique crime (Roche 2003:38).

## **DISCRETION IN DECISION MAKING**

In the context of this research, we were interested in the way in which Centeniers used their judgement to act upon the information provided, both written and oral, to make decisions during enquiries. Gelsthorpe and Padfield offer the following definition of discretion:

Discretion refers to the freedom, power, authority, decision or leeway of an official, organisation or individual to decide, discern or determine to make a judgement, choice or decision, about alternative courses of action or inaction (Gelsthorpe and Padfield 2003:3).

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Centeniers felt that the considerable potential for the exercise of discretion was the single most important factor in the discharge of their duties. Most Centeniers stated that they had “enough” discretion to exercise the appropriate authority when required.

Discretion is important. This is not a job where you are being assessed all the time. A states police officer often has to take things one step further or they are up before the inspector. It doesn't matter how long it takes me to deal with something, nor how, because I am accountable to the parish (Centenier – urban parish).

Levels of discretion grow with experience. We have more discretion than the states police **not** to report offences and turn them into “crimes”. I have the power not to charge and that is huge and important (Centenier – suburban parish).

Nils Christie, the Norwegian criminologist, who has written extensively about the place of informal procedures in criminal justice, makes a similar, important point about the concept of crime:

Crime is not a ‘thing’. Crime is a concept applicable in certain social situations where it is possible and in the interests of one or several parties to apply it (Christie 1982:74).

Other Centeniers acknowledged that levels of discretion were constrained by a number of factors, notably a framework of guidelines and legal procedures which militated against the use of the Parish Hall Enquiry in the administration of justice. Consistency was also mentioned in the context of discretion. Many Centeniers commented that the reasons for the exercise of discretion needed justification in order to raise public confidence. Centeniers interviewed with at least five years honorary service all reported that they had experienced a rise in the level of constraint placed upon their decision making.

When exercising discretion, we are always accountable to the A-G. In this day and age you have to cover your back. We have lost some of the beauty of turning a blind eye. Now, we need to think “what if...” (Centenier – urban parish)

Attempts to limit the discretionary powers of Centeniers have been observed by key players in the criminal justice system (Guidance Notes, Code on the Decision to Prosecute, States Police Force Orders, Time Period Aims and Magistrates Training Notes). These seem to have the aim of establishing clear rules according to specific criteria for the forum of hearing particular cases.

There is an expectation to charge offenders according to States Force orders in respect of the following offences:

- Grave and criminal assault
- Common assault resulting in injuries to the victim
- Breach of bind over where the offence is similar

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Possession of Class A drugs  
Persons on probation  
Offences whilst on bail  
Where the offender has previously failed to attend a Parish Hall Enquiry  
Persistent offender, i.e. similar offences in the past 12 months  
Assault on Police

(Force Orders 30/4/03)

It has also been observed that in certain cases, charges that had been laid under this policy were later reduced or dismissed in court due to insufficient evidence. Introducing standards of practice according to mechanistic rules can inhibit good practice. Strict adherence to this policy means that opportunities for informal dispute resolution at parish level are affected. Victim impact in such cases can be high and victims may be left with a sense of injustice. Later sections of this report discuss interviews with victims who state that satisfaction is high when offences are dealt with at Parish Hall level and even higher in cases where there has been Victim Offender Mediation.

Decisions or choices then, are in practice much constrained, by formal and legal rules and also social, economic and political constraints that act upon the exercise of choice (Gelsthorpe and Padfield 2003:3). In Court, sentences are made following a tariff intended to ensure proportionality and consistency. Punishment is expected to be proportional to the seriousness of the offence and the offenders' level of responsibility in the act. Legal precedent is also used to maintain consistency. Baumgartner (1992) suggests that such constraints mean that discretion is a myth. Centeniers however, appear to have more discretion than people imagine. Firstly they have a duty to uphold the law; secondly Centeniers claim that they have the duty to protect, nurture and develop the community and promote the interest of the parish. There is a duality between enforcement and assistance. The discretion available to the Centenier means that the public interest can take precedence over the enforcement role. An offence may pass the 'evidential test' but the 'public interest' in terms of community realignment and development can be prioritised.

## **FLEXIBILITY**

The flexible and practical implementation of the law is a key feature of the work of the Centenier at Parish Hall Enquiry. This has been demonstrated in other research into traditional, informal systems (Stevens, 1998). Many issues which would fall outside legal standards of relevance in court can become the subject of scrutiny in enquiries. What is known about the attendee, the family, school, residential circumstances can all be taken into account when applying the 'public interest' test. Other factors that influenced Centeniers were the observed personality or character of the attendee, parents, other honorary officers' knowledge of the attendee and their supporters. Centeniers view of fairness and perceptions of remorse all featured in the decision-making process.

In practice, the Centenier is able to exercise considerable discretion and a suspension of "rules". This is frequently demonstrated at Parish Hall where longer

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term rehabilitation and reintegration are seen to be preferable to retribution. The following case extract provides one such example:

### **Box Three (Extract)**

A young person was reported to the police for stealing money to purchase 13 grams of cannabis resin.<sup>38</sup> Taking the Attorney General's Guidelines into account, the Decision Sergeant appropriately recommended that the young person should be prosecuted. When the family attended for the Parish Hall Enquiry it became clear to the Centenier and the probation representative that this case was not straightforward. Following a recent family bereavement, the young person had found solace in alcohol and cannabis; school attendance and quality of work had suffered. The Centenier was very patient and sympathetic to the circumstances of this very sad case. He shared his own painful experience of bereavement at a similar age. Following a lengthy discussion of the risks of such a strategy, the young person and his family were offered the benefit of a voluntary supervision for a six month period to be supervised by a specialist in mental health and drug counselling at the Probation Service. This sanction was offered as an alternative to a court appearance. The Centenier focused upon the potential positive outcomes of a successful completion.

Centenier: I don't want to punish you, you are suffering enough. I think we can help and we would like you to help us to help you.

Six months later, the young person returned to the Parish Hall for the follow-up enquiry. The Centenier admitted that he barely recognised the person standing in front of him. The young person was talkative and smiling. All but one appointment offered by the Probation Service had been attended, and the young person had managed to secure some employment. Unfortunately, towards the end of the supervision period, there had been a further minor motoring offence in another parish (dealt with at parish hall level). The Centenier expressed his disappointment and disapproval for the further offending but was full of praise for the progress made during the voluntary supervision. The Vingtenier noticed the family seated in the waiting room and went to speak to the young person and the family. He was also full of praise for the progress made. "I used to work with... [], ... would have been really proud that you have turned this around, really proud of you".

In this case, guidelines are set aside in order to gain a longer term beneficial effect than a short term punishment.

Gelsthorpe and Padfield discuss the work of Liebling and Price and draw upon the argument that "norms of reciprocity exist between the enforcer and the enforced which result in rules being suspended in the interest of long term interests" (Gelsthorpe and Padfield 1999:18). They refer to the "unexercise of power" in a prison setting and explore the links between formal and informal power. Centeniers have similar opportunities to "unexercise" power over parishioners.

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<sup>38</sup> Attorney-General's guidelines 1/97 for dealing with drug offenders state that the maximum permitted for consideration of the case at a parish hall enquiry is 7grams.

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## **FEAR OF DISREPUTE**

Most Centeniers who were unsure about a particular course of action after consultation with the Chef de Police stated that they would seek advice from either the Legal Adviser, the Magistrate or in some cases, the Attorney General. This was noted particularly where Centeniers were considering departing from the recommendation made by the Decision Sergeant at the Criminal Justice Unit. Centeniers expressed the fear of disrepute, on both an individual and collective basis.

## **ACCOUNTABILITY**

The constraining of the Centeniers discretion seems to have more to do with issues of accountability and managerial control than any public concern for consistency of practice. During the five year period of this research, very few complaints about the practice of Centeniers at Parish Hall Enquiry have been noted by the Attorney General. The Jersey Police Complaints Authority investigates complaints made against any Police Officer. In 2003, the Authority supervised the investigation of 30 complaints. The Authority does not investigate all complaints made nor does the Authority make the distinction between honorary and States Officers so accurate presentation of the figure regarding Centeniers is not possible. In 2004, 43 complaints were investigated by the States of Jersey Police, 5 of which were for criminal conduct. When matters refer to an honorary officer, the complaint is referred to the Attorney General who refers the complaint to the Connétable of the respective parish for comment. The most common complaint with regard to the Parish Hall Enquiry seems to be that of Centenier's fining outside of their statutory power.

## **INDEPENDENCE**

Centeniers conducting enquiries state that the decisions that they take are done so on a consensual basis. The States Police express concern that consent is not always truly informed due to a lack of process by the Centenier and a lack of understanding by the attendees.

The principle of independence suggests that the reviewer of a case should be independent of the investigating officer. This operates well in Jersey where all cases are independently reviewed by the Centenier. It was recommended and implemented as a result of the first Clothier report that Centeniers should cease the practice of both conducting a Parish Hall Enquiry where they have previously investigated the incident. The researchers observed that great strides were made to avoid a conflict of interest in this area. In extreme circumstances, a Centenier from a neighbouring parish may be asked to deal with a particular case in order to ensure impartiality. There are a number of mechanisms inherent in the system that affords an intrinsic level of accountability.

There seems to be a widespread misapprehension that the Parish Hall Enquiry is a judicial process and not all interviewees agreed that the Centenier is independent. A Senior States Police Officer expressed the following view:

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They are all part of the community, but the job they do sets them apart from the community, because they have power over them. There are huge integrity issues. They are not independent. Under Human Rights, you will never be able to justify members of the same policing body adjudicating upon offences committed within the same parish. The election argument doesn't hold water. They are elected by very few. I have a horrible prejudice against elected officials who have too much scope to make decisions. Influence is present even if they deny it.

If the Centenier has power over the attendee, it can only be exercised with mutual consent. The ultimate power is therefore held by the attendee who has the right to disagree and request hearing by a formal Court. Even after the Enquiry, decisions can be referred to the Attorney-General by the attendee. In practice, this seems to be a rare occurrence. Decisions made by the Centenier (with the exception of laying a charge) are made on a consensual basis. In the United Kingdom, prosecutors are required to take into account "any lines of defence". Centeniers are not bound by this in their decision-making. As previously discussed, the fact that an offence is admitted does not mean that there is sufficient evidence to warrant prosecution. The issue of informed consent is also important. It is not agreed by the States Police that there is sufficient understanding of the process to give truly informed consent. Very little coercion was observed. Although there were examples of uneven compliance with guidelines most attendees were informed that they may disagree with the decision of the Centenier and opt for a formal Court hearing. The process was seen to be governed by bargaining and compromise through a "process of deliberation, justification, and persuasion, not a process of direction" (Roche 2003: 83). Some attendees admitted that they were prepared to accept the decision of the Centenier because they did not want the publicity, inconvenience, embarrassment, potential loss of earnings of a court hearing.

## THE DECISION TO PROSECUTE

In cases where the Centenier had some discretion in the charging process, the decision to charge was never observed to have been taken lightly. Often it involved soul-searching, discussion or an apology for being obliged by law to lay a charge.

### Case example 1. (Extract)

Offence: Dangerous Driving

Mother: We are quite concerned at the way he rides.

Centenier: The young are immortal

Father: He thinks he is

[The Centenier listened to the circumstances of the offences and 20 minutes of discussion ensued amongst the family about the potential consequences of the offences]

Centenier: Given the serious nature of the allegations, it has to go to court because I feel that is beyond my powers of punishment. I'm sorry about that. A £50 fine wouldn't make the point. I really don't like taking people to court especially young people but blocking the traffic and crossing the central reservation was not a clever move. If it was more minor, I would have dealt with the by a deferred decision. I'm sorry; I don't think I really have much choice. It is something that I am not prepared to deal with here"



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Dad: What is going to happen to them in Court?

Centenier: The Youth Panel often give the benefit of the doubt. But they are not a pushover either. Expect a fine, and I think that they will want to impose a short disqualification.

Even in cases where the Centenier had no discretion according to the law, justification for the charge was always explained and the attendees were given the opportunity to raise any issues of concern. Often attendees were anxious about appearing before the magistrate and the Centenier was able to explain the process and answer questions.

Practical solutions were sometimes offered to attendees in order to facilitate their appearance in Court.

Case example 2 (extract)

Offence: Illegal Entry

Centenier: I'm charging him to appear in Youth Court next week. You need to be there at 2.30 pm.

Mum: I don't drive. I'll have to get him home at lunchtime and then get the bus. Do I have to be there?

Centenier: Yes, he is under 16 so you must attend. I now have to warn him for the first possible date after he has been charged and the Youth Court sit in the afternoon.

Mum: I've also got to pick up my younger two from school at 3pm. I don't know what to do.

Centenier: Is there anyone you can ask?

Mum: No. I'm on my own apart from my parents and they don't know about this.

Constables Officer (female): It's OK. I'll pick up your two with my two and bring them home with me. You can pick them up when you are finished at Court.

Centenier: And if you want, I can pick you up from home and then pick him up from school on the way into town.

## **PUBLICITY**

Whereas the media provide the Jersey public with a link to the Courts, the Parish Hall Enquiry is a private forum and neither the process nor the results are reported. In other jurisdictions, publicity is an important accountability mechanism. Protection of privacy has some support in law. The need to respect private life is enshrined in the European Convention on Human Rights; press and public may be excluded where their presence interferes with private life of any party (Art 6 European Convention on Human Rights). The media generally argue that any person who is convicted of an offence relinquishes this right to privacy. Attendees at Parish Hall Enquiry may only be identified if a charge is laid. Even though attendees may admit to the commission of offences, they agree to accept an informal sanction which is not recognised in law as a criminal conviction. The Enquiry is part of a prosecution process; the media are therefore not permitted to report upon proceedings.

Public dissemination of personal details of persons appearing at parish hall was recommended in 1950 by Maxwell and Tarry and again in 1996 by Clothier. On both occasions this recommendation was rejected in favour of the maintenance of the

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private hearing. It is clear from interviewees that media presence would have prevented the kind of discussion which the process depends upon. Interviews with attendees showed that most preferred the privacy and that the principal concern about being charged to Court was not the potential sentence but the fact that they would be “named and shamed” in the widely read local newspaper. Some were observed to ask the Centenier how to avoid this. This shaming mechanism was observed to be particularly strong amongst local women. One female attendee, a senior manager in the finance industry reported that she would have done anything to avoid the details of her offence being reported in the local media. This would have resulted in censure at work and her good reputation and that of her employer would have been tarnished. A number of participants interviewed had not told their friends or family that they had committed an offence. By contrast, one interviewee, a temporary resident, stated that because nobody knew him in Jersey, it wouldn’t have made any difference. When asked if it would have made a difference to him if the details of his offending were to be published in a newspaper near to his home he stated “my ma wouldn’t be best pleased, so yes, it would”.

### **VOLUNTARY ATTENDANCE**

Although attendance at a Parish Hall Enquiry is described as ‘voluntary’, failure to attend (despite frequent reminders) is likely to result in a summons. The threat of formal prosecution and potential conviction is outlined in the Notice of Intended Prosecution. One attendee commented: “It didn’t feel like an invitation, and I had no intention of turning it down”.

### **LEGAL ADVICE**

Guidance notes for Centeniers note that:

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 (4.01).

In practice, few Advocates attend at Enquiries although it was noted that many Centeniers stated that they had received telephone calls from legal advisers in advance of the Enquiry to discuss the likely outcome of the Enquiry or to offer a character reference. One attendee stated that he had phoned his Advocate in advance of the Enquiry for a motoring offence and been advised to “be prompt, polite, and take a cheque book”. It was also not uncommon for Centeniers to advise *against* legal representation due to the potential cost to the attendee. This was usually observed in cases where the attendee had indicated a potential guilty plea to an uncomplicated case. One Centenier considered that it would be “waste of money” to engage an Advocate and recommended that the attendee should prepare a “little speech” to deliver to the Magistrate. In one case, the probation representative considered it necessary to write to the attendee recommending that legal advice be sought prior to the Court appearance.

### **LEGAL AID**

In Jersey, Legal Aid is not funded by the state. It is a service provided by the legal profession in Jersey at their own expense so that offenders who cannot afford a lawyer or are unable to obtain one, can do so. This ‘pro bono’ service is provided on a rota basis by lawyers who have been qualified for less than fifteen years. The

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scheme is administered by the Acting Bâtonnier. This is a voluntary post filled by an advocate or solicitor for a two year period. Any person charged with a criminal offence may apply for Legal Aid where the offences carry a substantial risk of a custodial sentence or a risk of loss of livelihood or which is likely to incur a fine exceeding £500. Because the Parish Hall Enquiry occurs as part of the prosecution process, Legal Aid is therefore not available from the Acting Bâtonnier. It was observed that information about legal aid was not always forthcoming during enquiries where a charge has been laid. The researcher noted on some occasions that Centeniers did not know the name and contact details of the current Bâtonnier.

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## **7. OTHER KEY PLAYERS IN THE PARISH HALL ENQUIRY SYSTEM**

In this section we explore the roles and views of other key players in the criminal justice system, in so far as these relate to our main focus on the Parish Hall Enquiry. The discussion covers the five office-holders and organisations that exerted some degree of influence over the Parish Hall Enquiry during the period during which the research was undertaken. They were:

- The Attorney General
- The Court
- The States of Jersey Police
- The Probation Service
- The Home Affairs Committee

Their views are important in illustrating the part which the Enquiries are seen to play in the system, and as examples of some of the current disagreements about their usefulness and future role.

### **THE ROLE OF THE ATTORNEY GENERAL**

As the titular head of the Honorary Police, the position of the Attorney-General is central to the operation of the system. In practice, the Attorney-General has no day to day input into the activities of the Honorary Police. The role is however, instrumental in the preparation of guidelines and directives, the investigation of complaints and the general promotion of Honorary Police activities.

### **THE COURT**

The Magistrate has exerted considerable influence over the function and filtering of cases appearing at Parish Hall, particularly regarding youths. This reach has also extended to States' Police policy and procedure.

The Magistrate stated in the widely read local newspaper that he wished to reduce the number of "unnecessary parish hall enquiries". (Jersey Evening Post, December 2001, December 2002). The subsequent composition of the 'A' and 'B' lists of the names of young offenders accelerated the passage of a number of youths into the Youth Court for offences that previously would have been dealt with at Parish level. Automatic charging reduces the possibility for creativity and innovation and increases the rigidities in the system.

Research undertaken by the Probation Service suggests that this policy also led to a rise in the number of offenders charged to appear before the Youth Court. The Probation Service prepared Social Enquiry Reports on 94 Youths in 2003 who were charged directly to the Youth Court at Police Headquarters without the benefit of attendance at Parish Hall Enquiry. This represented an increase of 40% on the 2002 figure of 67. 39% of Offenders who were charged directly for court without appearance at Parish Hall were dealt with by either a fine or a Binding Over Order. There is an argument that these may have been heard at Parish Hall level where the same outcome could have been attained without the attraction of a criminal conviction. The use of empirical data, hitherto unavailable, prompted serious

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questions about the role of diversion, the overuse of the Youth Court and the apparent disuse of the Parish Hall Enquiry. Meetings between the Chief Probation Officer and the Magistrate have resulted in the preparation of a discussion document which outlines the criteria for referral to the court.

During a training session for Centeniers; the Magistrate expressed concern over 'inconsistencies' of four areas: the slow speed of the process, the seriousness of offences being dealt with by Centeniers, the antecedent history of offenders dealt with at parish level and the excessive length of deferred decisions. These concerns greatly influenced the practice of Centeniers who are sometimes less willing to deal with matters at Parish Hall level for fear of criticism by the Magistrate. In addition, the Magistrate has produced time period aims in order to refine the system. Adherence to these aims has impacted upon Parish Hall Enquiry practice (See Appendix G).

### **FAST TRACK POLICY**

As a result of the production of the time period aims; a fast-track policy was introduced for drink-driving cases. This reduced the length of time between offence and first court appearance considerably but under the previous system, offenders who reserved their plea at Parish Hall may have used the period of time prior to the Court date to obtain advice, thereby appearing in Court for the first time with a firm plea.

The Magistrate is of the opinion that the fast track principle should apply to other offences where the Centenier has no discretion. He is also of the opinion that public order cases should be dealt with by a financial penalty in Court and not at Parish Hall level: "Our culture is far too lax about public order, binding over orders are now not applicable for public order". If this were to be the case, many of the benefits of informality that are considered to be effective in community building and promoting a reduction in further offending may be lost.

### **REFERRAL BACK**

Currently there is no mechanism to allow referral of cases back to Parish Hall Enquiry where there may have been a change of circumstances relating to the charge. Such a mechanism may prove useful to avoid criminal conviction whilst ensuring that the offence is officially sanctioned. This facility may result in a reduction of the number of automatic prosecutions for co-accused according to current guidelines.

### **ADVICE AND GUIDANCE**

Centeniers report that advice from the Magistrate is highly valued. As mentioned in the previous section, Centeniers are encouraged to discuss cases with the Magistrate directly where there is uncertainty over a course of action. The Magistrate is supportive of the Centenier's role and the principle of the Parish Hall Enquiry when applied to certain offences and circumstances. For motoring offences, the general test is that of whether the offence is so serious that the Court is likely to impose disqualification. The Magistrate has also shown himself to be most supportive of creative and innovative solutions to offending proposed by Centeniers for youths who would likely have received Binding Over Orders from the Court.

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## THE ROLE OF THE STATES POLICE

Ten Officers upward of the rank of Sergeant were interviewed to formulate an opinion of the value of the Honorary Police and the Parish Hall system from the States Police viewpoint. The results of these interviews reveal a divergence of opinion, across and within ranks, as to the purpose of a Parish Hall Enquiry and the role of the Centenier.

The following observations about changing practice were made:

A year, 18 months ago, we were looking to parish hall them. Now the guidelines are that anyone who has committed an offence should be charged. We are also seeing more written cautions given here. There is also the DIC fast track policy. Before we would parish hall them. Now the Courts want them fast-track. The Centeniers come at 6pm and they won't refer to Parish Hall from PHQ. Some give written cautions. It is the same as a Parish Hall Enquiry but without the process. But if **they** can give a written caution here, why can't the Inspector do it. The Centenier's Association agreed to that; it's the thin end of the wedge, they were silly to agree. If this carries on, it will be the end of the system; we are hardly going to send anyone to parish hall any more. (Custody Sergeant)

The change in practice may have come about since the introduction of the computerised case management system. Levels of bureaucracy seem to have increased possibly resulting in a rise in the numbers of offenders charged.

First offenders. We didn't used to put them to Court. We would historically put them to parish hall. The system is now more complicated due to the paperwork and CJU (Custody Sergeant).

I was called to the police station to charge a first offender and I wasn't really sure that it was the right thing to do. The Sergeant said "come on Centenier, it'll be much easier. I need to get all these loose ends tied up tonight" (Centenier – rural parish).

It would seem that a number of factors have combined to bring about a change in the way that offenders are diverted into the Parish Hall Enquiry system. The "traditional" approach, prior to 2003 was to verbally warn offenders to attend an Enquiry in the appropriate parish. Since the implementation of the computerised system, the process has become more formal and offenders are required to submit their personal details to the officer who in turn prepares an electronic report. Staff at the Criminal Justice Unit review the evidence, prepare a case file and generate a Notice of Intended Prosecution which invites the offender to attend at a Parish Hall Enquiry. The impact of Police bail, introduced under the Police Procedures and Criminal Evidence (Jersey) Law 2003 upon the continued use of the Parish Hall Enquiry, particularly for adults, remains to be seen. It is possible that it will further erode the role of the Centeniers Enquiry in the parishes.

In contrast to other jurisdictions, the States Police are not empowered to charge individuals to appear before the Court. It is possible that the various tensions will intensify as well as a potential re-opening of the gulf between the States Police and

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Honorary Police as the former take on “national” ideas and standards that do not fit neatly with the traditional Jersey approach. It is also possible that practices will change through a process of ‘drift’ rather than conscious decision, as an unintended consequence of computerisation.

## **ORGANISATIONAL NORMS AND EXPECTATIONS**

Organisational norms and expectations differ between the States and the Honorary Police. There is some evidence to suggest that the “evidential test” is given greater weight than that of the “public interest”. There is also the belief that the power to charge should be removed from the Centeniers:

They [the Centeniers] have no training in law. Their job is to assess evidence. On what basis? How can they make these decisions? It needs professional qualification, not on some irrelevant grounds, the potential for influence is always there and it is not right. There is a lack of professionalism. It is no longer acceptable to have this buffer, with the honoraries as the guardians of the criminal justice system (Senior Manager, States of Jersey Police).

All cases submitted to the Criminal Justice Unit are reviewed by the “Decision Sergeant” who will make a written recommendation to the Centenier about where the case is processed. This recommendation is usually based upon a combination of factors including the gravity of the offence and any previous offending. Centeniers report that although this preliminary indication is helpful, it has little influence over any final decision preferring to make up their own minds about the nature and context of the offence after having heard the facts and relevant information from those present at the Enquiry.

## **THE ROLE OF THE STATE**

### ***CRIMINAL JUSTICE POLICY FORMULATION***

Following the publication of the Rutherford and Jameson report in 2002 the Home Affairs Committee has been actively developing a criminal justice policy for Jersey. A number of key players have participated in focus groups and seminars relevant to particular areas of policy. The Criminal Justice Policy consultation document recommends the continued use of the Parish Hall Enquiry system as an appropriate intervention. The newly formed Youth Action Team intends to make use of the informal nature of the Parish Hall Enquiry System to further its aim of providing an effective early intervention service for children and their families.

The State has a role to play in striking a balance between the professional and traditional approaches, and ensuring that they cooperate to the benefit of the community.

Although the Committee agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, these are outweighed by the inherent dangers in tampering with a

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tribunal that works successfully as a diversionary tool. There has been evidence of a continuing tendency to by-pass the Parish Hall Enquiry for certain offences and in the case of some persistent offenders. For the system to work effectively there must be appropriate balance and good decision making on the part of Centeniers (Criminal Justice Policy Consultation Document 2005:61).

## **THE ROLE OF THE PROBATION SERVICE**

Unlike the Probation Service in England and Wales, the Jersey Probation and After Care Service is an agency of the Royal Court of Jersey. The Probation Service has been in existence in Jersey since the 1930's and has a long history of involvement at Parish Hall level. Officers attend all enquiries where youths are involved to offer assistance to the Centenier in his or her decision making. The Service also offers non-statutory supervision of offenders referred by Centeniers, restorative justice conferencing, administration of the Pitstop scheme and support to Centeniers. The Parish Hall Enquiry is considered by the Service as an important tool in the armoury of reducing offending behaviour and protecting the public from crime. The System is considered as a model of good practice and the Probation Service strives to uphold the system through detailed research and evaluation of process and outcomes.

The Probation Service have developed, over a number of years, a comprehensive database of information relating to Parish Hall Enquiries (for youth offenders) and produce an annual report which provides a useful digest of youth offending statistics.

Officers of the Probation and After Care Service have offered assistance to Centeniers at Parish Hall Enquiries since the mid 1960's. In the main, advice and support is offered to youths although Centeniers continue to refer adults to the Service for voluntary supervision.

Voluntary Supervision has been offered by the Probation service since the mid 1960's when a need was identified offer children who had committed more serious offences an alternative to a court appearance. The Probation Service agreed to offer a period of intervention, on a voluntary basis, to address the needs of the child and reduce further offending behaviour. The scheme proved successful with high levels of satisfaction and support from Centeniers together with low rates of reconviction. The Probation Service continues to offer Voluntary Supervision to appropriate children and adults and the breadth of intervention has expanded considerably in recent years to meet complex needs. The child and family enter into a voluntary contract with the Centenier to comply with the Probation Service during a specified period of months. An individual programme is designed according to the needs of the child. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the child breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute. Voluntary Supervision agreements have shown themselves to be very successful with low rates of re-conviction. Other disposals at Parish Hall have equal success. 'Words of advice',



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written cautions and deferred decisions show low levels of re-offending and re-conviction across the parishes.

**8. THE OBSERVATIONAL STUDY: PROCESS AND COMPLIANCE**

This section is the first of two in which we report on the main findings of the structured observation study. We concentrate first on descriptive data about the enquiries, those attending them and the offences they admitted. We then provide data on a number of aspects of the enquiries which are, or should be, covered by published rules and guidelines, in particular the Attorney General’s Guidance Notes. Levels of compliance with some aspects of the Notes varied considerably.

Although the researcher has attended at over three hundred enquiries during the research period, this section of the report describes what has been learned from a *structured observation* of fifty one parish hall enquiries conducted across the Island by twenty eight different Centeniers. Firstly, information was gathered to assess the extent to which guidance notes for Centeniers provided by the Attorney-General (AG 1/97) were followed. Examples from enquiries are provided to illustrate some of the factors. It should be noted however that in order to protect the identity of attendees, victims and supporters within a small community, some key details have been omitted or generalised to guarantee anonymity.

Tables 1-7 illustrate the attributes of the observation sample. Biographical and offence data were collected from written police reports and Probation Service records.

**Table 8.1  
Gender of Attendees**

	Frequency	Percent
Male	40	78.4
Female	11	21.6
Total	51	100.0

**Table 8.2  
Youth / Adult Attendees**

	Frequency	Percent
Youth	36	70.6
Adult	15	29.4
Total	51	100.0

**Table 8.3  
First Offenders**

	Frequency	Percent
Yes	31	60.8
No	20	39.2
Total	51	100.0

**Table 8.4**  
**Previous attendance at an Enquiry**

	Frequency	Percent
Yes	22	43.1
No	29	56.9
Total	51	100.0

**Table 8.5**  
**“Deferred Decision” Enquiries**

	Frequency	Percent
Yes	1	2.0
No	50	98.0
Total	51	100.0

**Table 8. 6**  
**Offences**

Offence	Frequency
Allowing to be carried in TADA vehicle	2
Art 15(1) RTL - Leading cows without due care	1
Article 15 – (Driving without due care and attention)	2
Breach of the peace	1
Break and Entry	1
Common Assault	1
Contest Parking Fine	3
Construction and Use Offence	1
Cruelty to an animal	1
Dangerous Driving	2
Larceny Servant	1
Larceny Shop	4
Malicious Damage	3
Using a Mobile Phone whilst driving	1
No Insurance	2

No Licence	2
Permitting no insurance	1
Possession of Cannabis	6
Purchasing Alcohol Underage	2
Purchasing Alcohol for an Underage Person	1
Resisting Arrest	1
Speeding	4
Taking and Driving Away	3
Underage Drinking	3
Windscreen Insurance Disc Infraction	2
Total	51

**Table 8.7**  
**Parish**

	Frequency	Percent
St Helier	8	15.7
St Saviour	2	3.9
St Clement	1	2.0
Trinity	3	5.9
St Breilade	8	15.7
St Peter	3	5.9
St Lawrence	10	19.6
Grouville	2	3.9
St Martin	1	2.0
St John	5	9.8
St Mary	3	5.9
St Ouen	5	9.8
Total	51	100.0

Tables 8.8 to 8.17 present data relating to the level of compliance with the Guidance Notes for Centeniers at Parish Hall Enquiries. Together with the Code on the Decision to Prosecute, these notes provide the only written guidelines with which Centeniers are expected, but not compelled, to comply.

**Table 8.8**  
**Other Honorary Police Officer present**

		Frequency	Percent
Valid	yes	47	92.2
	no	4	7.8
	Total	51	100.0

Attorney General’s guidelines (4) state that “Enquiries are not held in public. The Centenier should at all times be accompanied during the Enquiry by another police officer”. Table 8.8 shows that this particular guideline is generally followed. In addition to the ‘official witness’ element to the enquiry, it was observed that the additional officer often played a role in other areas such as reinforcing pro-social behaviour, problem-solving, confirming social norms and parochial expectations of appropriate behaviour. For example, during an Enquiry for a public order offence, a Vingtenier was observed to propose and organise a boat fishing for trip the attendee and his father in order to get him “off the pier for a change”. Constables’ Officers were also observed (particularly in rural parishes) to provide the Centenier with background information about some of the attendees. “We took his mother home twice last week, drunk after work” or “I have told him off lots of times on his board in the precinct and he’s still doing it. He was there with the egg-throwers as well”.

**LENGTH OF ENQUIRIES**

Enquiries ranged from 7 minutes to 35 minutes long with an average of 17 minutes. The research team applied the observation schedule to a total of 14 hours of enquiry time. The number of days elapsed between the date of the offence and the date of the enquiry ranged between 14 and 112, with a mode of 31 and a mean of 46.

**PROVISION OF INFORMATION TO ATTENDEES**

Guidance Notes for Centeniers at Parish Hall Enquiries (2) states that “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”

Parish Hall Enquiry leaflets were available in the waiting rooms for 57% of enquiries. Practice across the parishes varied considerably in this regard. In St Helier, both documents are affixed to the wall in the waiting room. Code on the Decision to Prosecute is only available in English although Parish Hall Enquiry leaflets are available in a number of languages. The Parish of St Mary operates the practice of a Constable’s Officer explaining the leaflet to each attendee before being seen by the Centenier. In other parishes, the researchers could not locate the leaflets.

**Table 8.9**  
**Is Parish Hall Enquiry leaflet available in the waiting room?**

	Frequency	Percent
Yes	29	56.9
No	22	43.1
Total	51	100.0

Attorney General’s Guidance on the decision to prosecute was noted as available in the waiting room in 35 % of enquiries.

**Table 8.10**  
**Decision to prosecute in waiting room**

	Frequency	Percent
Yes	18	35.3
no	33	64.7
Total	51	100.0

## PROCEDURAL INTEGRITY

The Centenier fully explained his/her duties and the purpose and process of the Enquiry in less than half of cases. (43%) Where there was no explanation, the attendee had either attended at a previous enquiry or was asked if they understood the process by the Centenier.

**Table 8.11**  
**Centenier explained duties and practice at Enquiry**

	Frequency	Percent
Yes	22	43.1
No	23	45.1
Previous Enquiry attendance	6	11.8
Total	51	100.0

The Guidance Notes require that the attendee be told in “brief terms” what is the offence alleged to have been committed. The style of the Enquiry varied with some Centeniers always reading the police report and others who preferred to hear the facts of the case from the perspective of the attendee, clarifying any areas of concern with further questions. The opening statement from most Centeniers was usually “Can you tell me, in your own words, why you are here”.

**Table 8.12**  
**Centenier Read Out Police Report**

	Frequency	Percent
Yes	24	47.1
No	19	37.3
N/A*	8	15.7
Total	51	100.0

\* no formal police report was available in these cases. Evidence was presented or articulated from other sources.

**Table 8.13**  
**Attendee Asked for comments?**

	Frequency	Percent
Yes	44	86.2
No	7	3.8
Total	51	100.0

Table 8.13 suggests that a high level of participation is expected from the attendees by Centeniers. Attendees were observed to discuss the offence, the context of the offending and other factors that may have contributed to the act. Mostly, attendees took responsibility for the offences and accepted having done wrong.

**Table 8.14**  
**Voluntary attendance**

	Frequency	Percent
Yes	22	43.1
No	18	35.3
'No discretion'	3	5.9
n/a*	8	15.7
Total	51	100.0

\* This category was applied when the Centenier announced at the beginning of the enquiry that he/she was not intending to take the case to Court.

In a third of cases, the Centenier did not explain to the attendee that attendance was voluntary and that any decision reached could be rejected and presented before the relevant Court. Interviews with attendees where this occurred did not reveal this to be problematic for them, although it is undesirable from a legal point of view. Most stated that they were happy for the Centenier to deal with the case at Parish Hall because they were "guilty". When asked if it would have made a difference to their decision to accept the Centenier's sanction, most respondents replied in the

negative. One male interviewee stated that he would have been prepared to go to Court but only if he could be certain it would reduce the fine which he felt was excessive.

**Table 8.15**  
**If charged, did the Centenier caution in accordance with Judges Rules?**

	Frequency	Percent
Yes	11	21.6
not charged	40	78.4
Total	51	100.0

**Table 8.16**  
**If charged, did the Centenier explain notice of charge?**

	Frequency	Percent
Yes	10	19.6
No	1	2.0
not charged	40	78.4
Total	51	100.0

Tables 8.15 and 8.16 show that a high level of attention was paid to following the correct procedure during the charging process. All attendees who were charged were cautioned appropriately. The Notice of Charge was explained in detail in all but one case. The Centenier also explained the location of the courtroom, the likely procedure of the hearing, the possible involvement of the Probation Service and the Viscount. Most attendees asked what was likely to happen in terms of sentence. Most Centeniers were clear that they could not be “absolutely sure” but usually offered informal advice as to the size of the fine in the case of motoring offences. Attendees were also warned to expect disqualification in some cases. All attendees were asked if the Court appointment offered was convenient with many apologies from the Centeniers about having to take time off work or school to attend.

**LEGAL AID**

The Guidance Notes (8.02) state that the Centenier should inform the attendee of the availability of the Legal Aid Scheme.

**Table 8. 17**  
**If charged, did the Centenier offer information about the Legal Aid scheme?**

	Frequency	Percent
Yes	7	13.7
no	4	7.8
not charged	40	78.4
Total	51	100.0



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**Table 8.18**  
**If charged, did the Centenier advise against legal advice?**

	Frequency	Percent
Yes	3	5.9
no	8	15.7
not charged	40	78.4
Total	51	100.0

Table 8.18 illustrates the cases where the researcher noted that Attendees were advised *against* seeking legal advice (either privately or from the Legal Aid Scheme). In one particular case, the probation representative thought it necessary to write independently to the attendee with details of the Bâtonnier and the suggestion that legal advice should be sought in advance of the Court hearing.

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## **9. THE OBSERVATIONAL STUDY: COMPONENTS OF EFFECTIVE PRACTICE IN COMMUNITY-BASED JUSTICE**

In this section we report on those parts of the observational study which were concerned with procedural justice; perceived fairness and legitimacy; restorative justice; reintegrative shaming, which increases offenders' levels of regret for the offence and desire to make amends; clear disapproval of the offence, while maintaining a positive and optimistic view of the offender; effective communication, and the communication and reinforcement of pro-social attitudes and behaviour (pro-social modelling). We describe how these and similar practices were often present in enquiries, with examples, and we also document the responses of attendees. The high level of effective communication and sound correctional practice in enquiries is one of the more striking findings of this study.

### **THE IMPORTANCE OF INFORMALITY**

The informal nature of the Parish Hall Enquiry and the Honorary System upon which it depends have maintained order and upheld peace in Jersey for nearly 800 years. The Parish Hall Enquiry operates within an open model that means that almost anything and everything is possible when it comes to dealing with dispute resolution.

Roberts (1979) examines some of the mechanisms used by traditional communities to keep social peace and maintain order. A key theme is the belief that order and continuity can be established without recourse to a formal legal framework. He effectively argues that there is nothing to be gained by 'insisting that particular arrangements should be characterised as 'legal' whereas others should not' (1979:40). Law does not have to be interpreted by taking for granted some centralized state organisation. The presence of rules, courts and sanctions are not essential to effective forms of social control. Disputes and conflicts are considered normal behaviours and do not indicate a malfunction in society. The handling of disputes is dependent upon the make-up and beliefs and norms of society in which disputes take place.

In any small closely knit community where people find themselves in continuing face to face relations, the threat of exposure to ridicule, disgust, provoking feelings of shame and remorse must represent an important mechanism of control (Roberts 1979:40).

There is a strong tradition of research in criminology about how behaviour is regulated in practice, and the various reasons and processes which lead people, most of the time, to comply with the law. The general picture emerging from this is that most behaviour is regulated by informal processes and everyday interactions which convey social expectations and discourage norm-violating behaviour (Hirschi 1969). The main function of a formal system is to take over where informal systems fail but in any society; the main sources of peace and order lie in the efficacy and strength of informal systems.

In order to measure the presence and effectiveness of a number of factors considered to be important in reducing the likelihood of re-offending, an observation schedule was devised. This schedule is based upon the framework designed by

Strang et.al (1999) to assess the effectiveness of the Reintegrative Shaming Experiment (RISE) into restorative policing in Canberra, Australia. The observation schedule is reproduced as Appendix F and measures the following factors:

- Time taken to discuss the circumstances of the alleged offences
- Emotional Intensity of the Enquiry
- Procedural Justice
- Restorative Justice
- Retributive Justice
- Reintegrative Shaming
- Stigmatising Shaming
- Defiance
- Apology
- Forgiveness
- Pro-social modelling
- Attention to external factors and additional problems associated with the offence, the offender, the victim and the community.

**PROCEDURAL JUSTICE**

A measure of attendees’ ability to take part in the process is the percentage of time the attendee was speaking during the Enquiry.

**Table 9.1**  
**Number of minutes attendee spoke during Enquiry**

	N	Range	Minimum	Maximum	Mean
Minutes speaking	51	10	1	10	4.21

Table 9.1 shows that all attendees spoke for at least one minute during the Enquiry.

Within any social grouping, talking together is the principal means of resolving disputes. In small communities, there may be fewer instances of trouble because community members tend to be in touch with each other and know the areas of agreement and dispute. There was little evidence from observations to suggest that non-locals or non-English speakers were treated differently to long-standing Jersey residents with experience of the honorary system. The research team observed the use of interpreters in all cases where non-English speakers were present.

Another measure of an attendees’ ability to take an active part in the process is the ability to correct the official police report or verbal account of their behaviour and contribute to the outcome of the Enquiry.

**Table 9.2**  
**Was the attendee able to comment/correct the police report?**

	Frequency	Percent
not permitted	6	11.8
police report not read out	6	11.8
agreement sought	5	9.8
detailed opinion sought	34	66.7
Total	51	100.0

Centeniers sought either agreement of the facts of the case or a detailed discussion in over three-quarters cases.

Attendee contribution to disposal was observed to a lesser extent (43%).

**Table 9.3**  
**Attendee contribution to disposal**

	Frequency	Percent
none	23	45.1
small contribution	4	7.8
n/a	2	3.9
moderate contribution	4	7.8
high level	18	35.3
Total	51	100.0

## **COERCION**

The majority of Centeniers did not demonstrate coercive behaviour in order to encourage the attendee to agree with their decision. Centeniers were usually clear about their role and informed attendees that the case could be heard by the Magistrate. Attendees reported that they felt pressured by external factors rather than anything the Centenier said to accept the decision. These external factors usually included publicity, inconvenience and loss of earnings through a court appearance. The flavour of bargain and compromise seemed to ensure a sense of “fairness” felt by all participants.

**Table 9.4**  
**Extent to which Centenier coerces attendee into accepting decision**

	Frequency	Percent
no coercion	38	74.5
Gentle persuasion - I could take this to court but...	6	11.8
Moderate coercion - if this goes to court etc...	2	3.9
Centenier required to charge	4*	7.8
Coerced into pleading guilty rather than reserve plea	1	2.0
Total	51	100.0

\*one case of disputed facts.

In some cases the Centenier acted as a mediator, either conveying information between the parties or he can take an active part and promote settlement. This is most likely to work when both parties seek settlement and invite a Centenier to mediate. More frequently the Centenier acts as an umpire by making a decision rather than assisting participants to arrive at a mutually agreed solution.

## RESTORATIVE JUSTICE

The study of informal justice has shown that effective dispute resolution involves the bringing together of interested parties as opposed to the separation of the offence, the offender, victim and the community in which they all exist. The move to a more 'restorative' focus has arisen out of dissatisfaction with the way modern criminal justice has failed to meet the needs of individuals, victims or offenders. Most tribal or pre-modern societies demonstrate the use of restorative practices as a means of maintaining order and keeping social peace. Most of the features noted in the literature surrounding traditional justice are apparent in the restorative justice literature and many examples of Restorative Justice practice in a modern context are inspired by the practice of informal community justice.

Barnett (1977) is generally recognized as having introduced the term 'Restorative Justice' into the literature. He proposed a paradigm based upon 'pure' restitution in which the offence would be construed as perpetrated against an individual victim and never against the state. Victimless crimes would therefore no longer be considered crimes.

"Restorative Justice" in its modern context assumes several principles aimed at empowering victims and building communities. Conventional criminal justice theory and the official frameworks of police, court and prison do not encompass these values. Restorative justice seeks to assure that the victim is at the centre of the process. The primary goal is to make good and repair the harm done by crime to the victim, the community and the offender. Offenders must accept responsibility for their

actions before restoration can take place. By replacing the state with a human victim offenders are able to reflect upon the actual harm caused, both to the victim and to the community. The process is inclusive, and may extend to whole community involvement.

Howard Zehr (1990) created a comprehensive model of restorative justice. He remodelled the elements of participatory and community justice into an ‘alternative justice paradigm’. Illustration of his model came from the examination of Victim Offender Reconciliation Programmes (VORPs) in the United States, which focussed heavily on mediation. Meetings are organised to give the offender the chance to make voluntary reparation to the victims. It can include an apology and an explanation for the offence. Importantly, the offender has to listen to the victim’s own experience of the offence and the consequences of it. The VORPS that Zehr describes decreased reliance on formal justice and came about almost as a communitarian backlash to the perceived inadequacy of the retributive paradigm.

The levels of restorative justice were gauged by observation of the following areas:

**Table 9.5**  
**To what extent does Centenier discuss reparation to victim**

	Frequency	Percent
not at all	28	54.9
a little	2	3.9
n/a	12	23.5
a lot	1	2.0
much discussion	8	15.7
Total	51	100.0

**Table 9.6**  
**To what extent does Centenier discuss reparation to the Parish?**

	Frequency	Percent
not at all	33	64.7
a little	2	3.9
n/a	7	13.7
a lot	3	5.9
much discussion	6	11.8
Total	51	100.0

**Table 9.7**  
**To what extent does Centenier discuss the consequences of the offence?**

	Frequency	Percent
not at all	5	9.8
a little	1	2.0
n/a	2	3.9
a lot	5	9.8
much discussion	38	74.5
Total	51	100.0

Tables 9.5 and 9.6 show that in most cases, there was little discussion about reparation to the victim or the parish where the offence occurred. Restorative justice is also concerned with addressing past behaviour and with changing future behaviour. This was particularly clear in the discussion about the consequences of the alleged offence (Table 9.7).

#### **RETRIBUTIVE JUSTICE**

Retributive approaches focus on the offence and apportioning blame for past behaviour. Rehabilitative approaches aim to treat the offender by focusing on changing future behaviour. Restorative justice approaches incorporate elements of retributive and rehabilitative justice.

Court-based approaches tend to be retributive and focus on punishing the offender. The victim is usually absent or peripheral to the hearing. The community is represented by the state and the procedure is characterised by adversarial rather than negotiated processes. Table 9.8 illustrates the lack of focus on punishment demonstrated by Centeniers. The focus was very heavily upon the prevention of further offences (Table 9.9)

**Table 9.8**  
**To what extent did Centenier discuss punishment?**

	Frequency	Percent
not at all	33	64.7
a little	6	11.8
n/a	1	2.0
a lot	5	9.8
much discussion	6	11.8
Total	51	100.0

**Table 9.9**  
**To what extent did Centenier discuss prevention of further offences?**

	Frequency	Percent
not at all	3	5.9
a lot	6	11.8
much discussion	42	82.4
Total	51	100.0

**Table 9.10**  
**To what extent did the Centenier attempt to restore attendees humour or esteem?**

	Frequency	Percent
not at all	11	21.6
a little	4	7.8
n/a	3	5.9
a lot	11	21.6
much discussion	22	43.1
Total	51	100.0

In addition to a forward thinking approach, Centeniers also paid attention to restoring attendees' sense of humour and self esteem. Many attendees were embarrassed to be appearing at an Enquiry and most Centeniers took the time at the end of the Enquiry to put the experience into perspective, encouraging attendees to "forget all about it" or "move on".

### **REINTEGRATIVE SHAMING**

Braithwaite (1989) endorses the belief in the power of the community to exercise social control. He outlines two different kinds of shame. Re-integrative shaming refers to the process of condemning unacceptable behaviour whilst respecting the offenders as a person. In other words, making offenders feels ashamed of what they have done rather than who they are. In order to be reintegrated back into the community, offenders must show remorse, apologise to victims and repair the harm they have caused.

Applying his model of conditions conducive to "reintegrative shaming", Jersey would seem to possess all of the necessary mechanisms to ensure effective social control. The centrality of the parish as the unit of social organisation provides the foundation for most of the other attachments. Multiple relationships of interdependency are evident including the presence of extended family, residential immobility, low urbanization, strong religious influence and social groups.



Crime is best controlled when members of the community are the primary controllers through active participation in shaming offenders, and, having shamed them, through concerted participation in ways of reintegrating the offender back into the community of law-abiding citizens (Braithwaite 1989:8).

Tables 9.12 to 9.15 clearly illustrate the operation of reintegrative shaming mechanisms during Enquiries. Successful shaming does not require humiliation and whilst Centeniers are highly disapproving of the attendees' role in the commission of the offences, they are equally highly supportive and respectful of the attendees.

**Table 9.12**  
**To what extent is disapproval towards the type of offence expressed**

	Frequency	Percent
not at all	2	3.9
a little	3	5.9
n/a	1	2.0
a lot	11	21.6
Highly disapproving	34	66.7
Total	51	100.0

**Table 9.13**  
**To what extent is disapproval towards offenders actions expressed?**

	Frequency	Percent
not at all	5	9.8
a little	3	5.9
n/a	1	2.0
a lot	9	17.6
Highly disapproving	33	64.7
Total	51	100.0

**Table 9.14**  
**Level of support towards offender**

	Frequency	Percent
unsupportive	2	3.9
grudging support	2	3.9
n/a	2	3.9
supportive	19	37.3
highly supportive	26	51.0
Total	51	100.0

**Table 9.15**  
**Level of respect shown towards offender by Centenier**

	Frequency	Percent
Little respect	3	5.9
Respectful	12	23.5
Highly Respectful	36	70.6
Total	51	100.0

**Table 9.16**  
**Level at which the offender is treated by supporters as loved**

	Frequency	Percent
grudging support	1	2.0
n/a	13	25.5
supportive	6	11.8
highly supportive	31	60.8
Total	51	100.0

This support and respect for the attendee as a person, whilst condemning the offence, is also maintained by attendees' supporters thereby creating an atmosphere where a long term change in behaviour is far more likely.

**Table 9.17**  
**Level of approval expressed towards offender as a person**

	Frequency	Percent
not at all	3	5.9
a little	1	2.0
n/a	3	5.9
a lot	14	27.5
Highly approving	30	58.7
Total	51	100.0

Importantly, there is a clear focus on future behaviour and in over 94% of observations it was noted that the Centenier and other participants communicated very clearly that the attendees could put past behaviour behind them and look to a positive future.

**Table 9.18**  
**Level at which it was communicated that attendee could put actions behind them**

	Frequency	Percent
very negative outlook	1	2.0
little focus on future	2	3.9
much focus on future	11	21.6
very positive outlook	37	72.5
Total	51	100.0

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Case example: (extract)

Centenier: At the end of the day, this is not a hanging offence. **We** can put this behind **us** and move on. I want to resolve this to everyone's benefit.

### EMOTIONAL INTENSITY

Emotional power in the description of the offence can influence the levels of shame, guilt and remorse felt by the attendee who can in turn affect the level of responsibility the attendee is prepared to take for the alleged offence. Braithwaite recommends creating emotional intensity in the description of the offence to assist the shaming process.

**Table 9.19**  
**Emotional Power of act description**

	Frequency	Percent
Low intensity	2	3.9
Moderate	11	21.6
Police report not read	6	11.8
Quite high	16	31.4
High intensity	16	31.4
Total	51	100.0

Table 9.19 shows that where the Police Report was read, the emotional power of the description was of high intensity in two thirds of cases. Emotional power is achieved through changes in tone of voice, body language and silence.

**Table 9.20**  
**Degree of attendee discomfort**

	Frequency	Percent
very little	16	31.4
moderate	20	39.2
hot under the collar	12	23.5
squirming	3	5.9
Total	51	100.0

Table 9.20 shows that most attendees experienced some discomfort during either the description of the offence or the discussion that followed. In three cases, attendees were physically uncomfortable when required to listen to the facts of the case presented.

**Table 9.21**  
**Frequency of shouting at attendee**

	Frequency	Percent
none	49	96.1
isolated "don't do it again "	2	3.9
Total	51	100.0

There was almost no shouting at the attendees by the Centenier.

**Table 9.22**  
**Attendee cried**

	Frequency	Percent
Yes	2	3.9
No	40	78.4
Nearly/ brink of tears	9	17.6
Total	51	100.0

Crying is a measure of the emotional intensity of the Enquiry process. Three quarters of offenders did not cry but the remaining quarter were either on the brink of tears or crying when faced with the facts and consequences their alleged offences.

**Table 9.23**  
**Attendees supporters cried**

	Frequency	Percent
Yes	3	5.9
No	35	68.6
Nearly/ brink of tears	4	7.8
no supporter	9	17.6
Total	51	100.0

Supporters were slightly more likely to cry, particularly mothers. Often, it was the mother crying that prompted the similar response in their children. Centeniers used this to their advantage to reinforce the consequences of the offending:

Youth Case example (extract)

<p>Offence: Taking and Driving Away            Centenier: Just turn around and look at your Mum crying. Stop giving her a hard time; she's had enough to put up with over the years without you giving her any more hassle. Grow up!</p>
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Adult Case example (extract )

Offence: Breaking and Entry  
Female Centenier focused on the impact to the victim of this offence and the effect on others. Adult attendee's mother sobbed throughout.  
Centenier: Just look what effect this has had on your mother. She is so ashamed of you and so am I. I don't want your mum in tears like this.

### STIGMATISING SHAMING

The opposite of reintegrative shaming is disintegrative shaming or shaming that stigmatises the attendee. Stigmatising shaming labels an offender as 'bad' or 'deviant' in a way that offers little chance of redemption. Naming and shaming policies and examples of stigmatising shaming.

There is a fine balance between effective shaming and stigmatising influence. Braithwaite (1994) develops this at length. The very fact that the Parish Hall Enquiry does *not* publicly shame offenders may assist in the maintenance of order. Interviews with attendees at Parish Hall suggest that the omnipresent threat of Court and the consequent publication of the offender's personal details in the widely read local newspaper provide a particularly strong incentive to conform to the sanction of the Centenier.

Tables 9.24 to 9.28 demonstrate levels of stigmatising shaming measured by assessing the levels expressed toward the attendee by the participants, the levels of disapproval about the attendee as a person, the level of stigmatising names or labels used to describe the attendee, the levels of moral lecturing to which the attendee is subject and the extent to which the attendee is treated as a 'criminal'.

**Table 9.24**  
Level of stigmatising shame expressed

	Frequency	Percent
Not at all	48	94.1
Moderate	1	2.0
High level of stigmatising	2	3.9
Total	51	100.0

**Table 9.25**  
Level of disapproval of attendee as a person

	Frequency	Percent
not at all	48	94.1
a little	1	2.0
a lot	1	2.0
Highly disapproving	1	2.0
Total	51	100.0

**Table 9.26**  
**Level of stigmatising names and labels used to describe attendee**

	Frequency	Percent
None	38	74.5
Low - mild - prat etc.	9	17.6
Moderate - swearing	4	7.8
Total	51	100.0

**Table 9.27**  
**Level of moral lecturing to which attendee is subjected**

	Frequency	Percent
None	27	52.9
Low - should know better	10	19.6
n/a	1	2.0
Moderate	12	23.5
High - vulgarity	1	2.0
Total	51	100.0

**Table 9.28**  
**Extent to which attendee is treated as 'criminal'**

	Frequency	Percent
not at all	49	96.1
moderate	1	2.0
highly stereotyped	1	2.0
Total	51	100.0

When compared with levels of reintegrative shaming, humiliation and stigmatisation were seen to be low.

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## DEFIANCE

Most attendees displayed very little or no defiance during Enquiries.

**Table 9.29**  
**Level to which attendees behaves in a defiant manner**

	Frequency	Percent
No defiance	29	56.9
Little defiance	14	27.5
N/A	1	2.0
much defiance	6	11.8
Highly defiant	1	2.0
Total	51	100.0

When there was defiance, it sometimes came from the supporters:

Offence: Purchase Alcohol Underage  
Parent tried to shift blame onto pub: This was a joint workout. My youngest got served 5 pints. He hardly looks 14 let alone 15  
Centenier challenged this: Why do you let him go to the pub? Your sons put that licensee at risk of losing his licence.

Similarly, few attendees considered that they were not responsible for their actions.

**Table 9.30**  
**Level to which attendee holds others responsible for actions**

	Frequency	Percent
not at all	29	56.9
a little	10	19.6
n/a	1	2.0
a lot	6	11.8
Completely	5	9.8
Total	51	100.0

Three quarters of offenders were emotionally engaged with the Parish Hall Enquiry process and highly responsive participants.

**Table 9.31**  
**Sullen or unresponsive**

	Frequency	Percent
unresponsive	4	7.8
sulking	9	17.6
switched on	9	17.6
highly responsive	29	56.9
Total	51	100.0

The remainder (usually youths) displayed varying degrees of disdain and disinterest in the process. Centeniers were observed to handle sulking and moodiness in a variety of ways:

Case Example (extract)

Offence: Larceny shop  
 Centenier: What are you going to tell me about this?  
 Attendee: Dunno  
 Centenier: What are you planning at GCSE?  
 Attendee: Dunno  
 Centenier: What are your dreams for the future?  
 Attendee: Haven't thought about it

The Centenier went on to explain in lengthy, painstaking detail the repercussions of theft and the mistrust involved etc.

Attendee: You're wasting your breath! You **won't** see **me** again  
 Centenier: If I had a pound, my love, for everyone who has told me that, I would be a very rich man!

Case Example (extract)

Attendee: Look, sir, they let us get really drunk  
 Centenier: That is not mitigation. You are very, very fortunate that no-one was injured in that crash.  
 Attendee: How many of these [written cautions] can I get before I go to Court  
 Centenier: It is not a case of how many times you get away with things at Parish Hall. This is a shot across your bows. My job is to establish whether an offence has been committed and whether prosecution is in the public interest. In this case, it is my opinion that it is not. This is a first offence and you are young. Next time, you may not be so lucky.

**ACCEPTANCE OF WRONGDOING**

**Table 9.32**  
**Attendee accepts having done wrong**

	Frequency	Percent
does not accept	5	9.8
reluctant acceptance	6	11.8
accepting	5	9.8
freely accepts	35	68.6
Total	51	100.0



**Table 9.33**  
**Appears remorseful**

	Frequency	Percent
No remorse	5	9.8
very little remorse	12	23.5
remorseful	9	17.6
very remorseful	25	49.0
Total	51	100.0

**Table 9.34**  
**Attendee Apologises**

	Frequency	Percent
yes	36	70.6
no	15	29.4
Total	51	100.0

## **FORGIVENESS**

**Table 9.35**  
**Level of forgiveness expressed towards offender**

	Frequency	Percent
not at all	3	5.9
very little	5	9.8
n/a	2	3.9
a lot	8	15.7
Highly forgiving	24	47.1
Conditional on completion of reparation/deferred decision	9	17.6
Total	51	100.0

## **DEGREE TO WHICH FORGIVEN FOR ACTIONS**

**Table 9.36**  
**Degree to which offender is forgiven for actions**

	Frequency	Percent
not at all	3	5.9
very little	5	9.8
n/a	2	3.9
a lot	8	15.7
Highly forgiving	23	45.1
Conditional on completion of reparation/deferred decision	10	19.6
Total	51	100.0

## SUBSTANCE ABUSE

Where there was evidence of alcohol or drug abuse, the Centenier referred the attendee to the Alcohol and Drug Service for drug and alcohol awareness, either by suggesting attendance during the a deferment period or as part of voluntary supervision by the Probation Service

**Table 9.37**  
**Is there evidence of alcohol/drug abuse?**

	Frequency	Percent
yes	14	27.5
no	37	72.5
Total	51	100.0

## ADDITIONAL PROBLEMS

During the course of discussion, many additional problems were acknowledged by Centenier. These ranged from anti-social friends to problems with neighbours and peer group pressure and bullying at school. The Centenier usually offered advice and support with an offer of future contact to assist with any difficulties.

**Table 9.38**  
**Additional factors acknowledged by Centenier not related to this incidence of offending**

	Frequency	Percent
Anti-social peers	6	11.8
Attitudes to authority	3	5.9
Employment	2	3.9
Family problems	8	15.7
Impulsivity	1	2.0
Language	2	3.9
Other	3	5.9
Total	25	49.0
None	26	51.0
Total	51	100.0

It would be an exaggeration to suggest that all enquiries demonstrated all elements of effective practice with offenders. Examples of poor practice were observed, but it is stressed that these were rare and usually resulted from inexperience of the law and formal procedure. (One particular case involved the attempted issuing of a written caution where there had been a denial of the offence and a contradiction of the facts of the case).

Some Centeniers receive no formal or compulsory training into how to conduct an enquiry. They tended to learn "on the job" through observation of enquiries. (The researcher was usually able to tell who had served as a Constable Officer or a Vingtenier; their comfortable, flexible attitude gained through years of observation of

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Centeniers was apparent together with their unique technical knowledge of obscure local laws.) The majority of Centeniers referred difficult cases to the Legal Advisers and were full of praise for the practical and technical support that they received from that Department. The practice of handing over not guilty pleas and more complicated cases to the legal advisers was considered by most as a positive step with Centeniers noting that they would not risk losing a case due to their own inexperience.

### **PRO-SOCIAL MODELLING**

The pro-social approach involves workers identifying and being clear about the values they wish to promote and purposefully encouraging those values through the use of praise and other rewards. It also involves appropriate modelling of the values the worker seeks to promote, and challenging anti-social or pro-criminal expressions and actions (Trotter, 1999: 19).

Pro-social modelling refers to the process of demonstrating, encouraging and reinforcing positive behaviour. Pro-social approaches at Parish Hall appear to be effective because they allow the discouragement and challenge of anti-social attitudes in a positive way in a familiar community environment (rather than a court room or police station). Other studies suggest that judgemental attitudes, blame and punishment are related to less favourable outcomes (Trotter 1996; Lipsey 1991; Gendreau 1996).

Based upon behaviourist theory, pro-social approaches rely upon the belief that people are influenced by behaviour observed in others and by the positive and negative reinforcement of their own behaviour (Trotter 1996). Analysis of responses and observation showed that Centeniers display the type of pro-social behaviour that research has shown to be effective in reducing re offending and the establishment of safer communities (Andrews and Bonta 1998; McGuire 1995; Trotter 1999).

### **CONTEXT**

A focus on the individual and viewing the individual as the problem rather than focussing on the client in the family and social context seems to be related to poorer outcomes (Rubin 1985; Fortune 1997, cited in Trotter, 1999).

Centeniers have been observed to use their role in the community to facilitate successful problem-solving approaches to promote pro-social practices such as caring for others and consideration for ones neighbours.

### **ROLE CLARIFICATION**

The majority of Centeniers were clear or very clear about their own role during the Parish Hall Enquiry.

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**Table 9.39**  
**Is Centenier clear about role at Parish Hall Enquiry**

	Frequency	Percent
unclear	1	2.0
not really	6	11.8
clear	3	5.9
very clear	41	80.4
Total	51	100.0

The balance between the enforcement of the law and the promotion of pro-social outcomes was often difficult, most particularly when Centeniers were considering laying a charge. Nonetheless, Centeniers were very clear about what was negotiable and what was not.

The following extract from a case example demonstrates some of essential elements of pro-social behaviour and reintegrative shaming modelled by a country Centenier during an enquiry regarding malicious damage and serious animal cruelty. What is striking is the Centenier has no formal training in social work or behaviour modification. His “performance” is automatic, spontaneous and unrehearsed:

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### Case example (extract)

Centenier: I have watched you grow up over the years and I am really disappointed. You all live in a beautiful parish, with space to run around and really good neighbours.

[To attendee one]: How many neighbours would put up with your drumming, admittedly you are very good at it. I've heard you from down the road but I've never had anyone phone me to complain.

[To attendee two]: Motorbikes. What a lucky boy you are. Privileged. Privileged to have an open, private space to ride your motorbike. People *have* complained to me about the noise and I have always stood up for you; I tell them that it keeps you out of trouble. And look what you do....Parishioners are all entitled to a quality of life. All entitled to leave property on their property, locked up or otherwise. What about your Dad's plants and tools? What would happen? He has the right to leave stuff and know that it will still be there when he comes back.

To your credit, you eventually all came up with the truth. But look at the embarrassment and shame you have caused your families. Everyone in this parish knows who you are and what you have done.

[To parents]: What started as a foolish prank ended up as a complete disaster. Have they learnt anything from this?

I have lain in bed worrying about ruining your kids' lives. The recommendation from the States Police is to take this to Court. They would have a criminal record.. For animal cruelty. They would have to declare that on job applications, visa application. At the age of 13 and 14, I will have ruined their life. People often get more upset at a conviction like that than if they had assaulted a person.

I have thought long and hard about this, I want to deal with this here. I've spoken to the magistrate and the Probation Service. These are our boys, our future. I am very pro the youngsters of the parish. So, I am going to defer the decision for six months with a 3 month curfew between 9pm and 7am. If there is a special occasion and they are going with you, please call me.

[To attendees ]: But that is not all I want you to do. I want you to learn a bit more about the harm you have caused the animals. I have spoken to Mr x [one of the victims] and I would like you each to spend a day with him, on the farm from 5 in the morning to 6 at night. Individually, not as a group.

If any of you re offend, this will come back to haunt you and you I will have to take you to Court. Be squeaky clean, keep out of the way, and walk away from trouble. It's going to be hard but you have to do it. If you have any problems, anything at all, tell your parents and me and we can do something. You need to pick your friends carefully. The choices you make now have big implications. It takes a brave man to walk away from trouble but we all want to help you do just that.

Trotter identifies four areas that are important to a positive outcome:

1. Identification of positive or pro-social comments and behaviours
2. Rewarding those comments and behaviour with praise
3. Participants in the process present themselves as pro-social role-models
4. Challenge anti-social or pro-criminal comments and behaviour.

All of the above were clearly demonstrated in varying degrees by Centeniers during the Parish Hall Enquiry process.

**Table 9.40**  
Does the Centenier reinforce pro-social behaviour?

	Frequency	Percent
a little	3	5.9
n/a	2	3.9
a lot	17	33.3
high level	29	56.9
Total	51	100.0

Case Example (extract):

Offence -Dangerous driving  
 Attendee: I'm really sorry, I've never been in trouble in my life and I won't be again. I'm so sorry. I'm silly I will admit that.  
 Dad: I bought him the car for his birthday but made him pay the insurance to give him a sense of responsibility. He has been a prat. This will do him good; bring him back down to earth so to speak.  
 Centenier : We need to help him see that he can't carry on like this. Someone might get hurt. There is a time and a place to drive like a lunatic, on the cart track, not in a multi-storey. It's always the other person who gets injured. I'm going to provide you with a written caution. Are you happy to accept this?  
 Attendee: Thank you. Thank you. I'm happy to accept this. I am guilty. I'm so sorry.  
 Centenier: Thank you for taking this matter so seriously. I can see you've made an effort with your appearance, you look very smart. I wish everyone was as concerned about what they have done. Thank you. Good luck for the future.

**Table 9.41**  
Shows optimism

	Frequency	Percent
little pessimistic	4	7.8
n/a	1	2.0
cautiously optimistic	8	15.7
highly optimistic	38	74.5
Total	51	100.0

Case Example (Extract):

Offence - Allowing oneself to be carried in a stolen vehicle

Centenier: I've had a good chat with your Mum and the Probation Officer and I'm not convinced I'm happy to deal with this tonight. I need you to prove to me and to your Mum that you can stay out of trouble. Because you are starting a job tomorrow and want to apply for the army, I'm going to give you a chance to prove yourself. I'm going to defer this for three months. If I get a report that you have caused trouble, you will be back here and straight to court. Use this time to get yourself sorted out. I wish you every success, I know you will succeed. Please prove me right.

Case Example (Extract)

Offence- Malicious Damage

Attendee: I am very sorry, it was a complete accident.

Centenier to Mum: What do you think I should do with him? Have you discussed this? Does he always behave like this?

Mum: No he's generally very good. I think he is genuinely very sorry about this; it's shaken him up a bit.

Centenier: I don't really want to send you to court and give you a criminal record. The last thing you want is a record at your age. What do you want to do at University?

Attendee: Marine Biology

Centenier: Don't let this hold you back. I understand what happened. Now pin that on your fridge (the caution slip) and go and be a marine biologist. Wonderful

**Table 9.42**  
**Does Centenier demonstrate appropriate use of praise?**

	Frequency	Percent
not at all	17	33.3
inappropriate	2	3.9
n/a	3	5.9
a lot	5	9.8
highly appropriate	24	47.1
Total	51	100.0

**Table 9.43**  
**Presents as pro-social role model**

	Frequency	Percent
Demonstrates elements of pro-social behaviour	13	25.5
Persistently pro-social throughout enquiry	38	74.5
Total	51	100.0

Three quarters of Centeniers demonstrated pro-social behaviour throughout the whole of the Enquiry. The remaining quarter demonstrated elements at some point during the process.

The pro-social orientation of the Centeniers raises some interesting questions about the nature of the role. Does the presence of these individual qualities predispose these people to put themselves forward for honorary service? Is it necessary to be a particular ‘type’ of person to be an effective Centenier? Most Centeniers have a “can-do attitude” and use creative and innovative solutions to parish problem-solving on a daily basis. Recourse to the law is often unnecessary. It is possible that these shared processes been unconsciously at work for so long within the honorary systems that they might offer some explanation to the high levels of social order within the rural parishes.

**Table 9.44**  
**Discourages and challenges anti-social behaviour**

	Frequency	Percent
a little	2	3.9
n/a	10	19.6
a lot	10	19.6
high level	29	56.9
Total	51	100.0

**Case example (extract)**

Centenier: The value of goods is only £25 but it is not so much the value of what you took, it’s the dishonesty. This gets serious. Who is going to employ you if you carry on like this? We don’t want the slippery slope. Before you know it, you’re alienated, no friends, no job. The police want you to go to Youth Court but I am prepared to deal with it here. Is that acceptable to you?  
 Attendee: Yes, thank you  
 Centenier: I don’t want there to be a second time. Don’t do it again. Go and be a great teacher. Put all this behind you.



**Table 9.45**  
**Does Centenier demonstrate empathy?**

	Frequency	Percent
not at all	3	5.9
a little	7	13.7
n/a	2	3.9
a lot	10	19.6
high level of empathy	29	56.9
Total	51	100.0

**Table 9.46**  
**Does Centenier demonstrate constructive use of humour?**

	Frequency	Percent
not at all	1	2.0
inappropriate	4	7.8
n/a	6	11.8
a lot	11	21.6
highly appropriate	29	56.9
Total	51	100.0

Spontaneous use of humour can makes attendees feel as though they are being treated as a person rather than a ‘criminal’ and this in turn can have a constructive outcome. It can assist in the restoration of self-esteem. Centeniers were also observed to use humour as a method of lightening the atmosphere at the end of the enquiry.

**Case example (Extract)**

**Offence-Speeding – Mature Student**

Centenier : Sorry I can’t fine you here. You were going too fast. Most of the great and good appear before a Centenier one way or another so don’t worry too much about it. In case I don’t see you before court, think about your finances being that you are a student. Let the magistrate know; he realises the parable of blood and stones so make sure he knows you are a student.

Centenier: Have you got your exam timetable with you.

Attendee: No

Cent: If you don’t appear your arrest will be ordered. Should you find you have an exam, phone and tell me very quickly what’s going on and we will re arrange the dates. We do our best not to muck up people’s lives. There we are (hands him the notice of charge) you are now officially “the accused” – Attendee: not “Sir” any more then (laughs)

Cent: I’m afraid not! And you are now entitled to legal aid!

Cent: “Nice haircut, that’ll save you combing it”

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In some cases, the humour used was considered to be inappropriate:

Case example (Extract)

Deferred Decision Enquiry for possession of cannabis.  
Centenier to attendee: All OK. No further offending.  
Attendee: Fine  
Centenier to parent: Has he been cutting the grass and doing the washing up, generally helping out to make up for all the trouble he's caused?  
Parent: He's calmed down a lot.  
Centenier: Must be taking a better class of drug  
Attendee: [Silence]  
Cent: Joke  
Parent: I'm glad **you** think so.

**“DO AS YOU WOULD BE DONE BY”**

This pro-social attitude emerged as a theme during interviews. Attendees also reported being treated with respect and courtesy<sup>39</sup>. Time spent on enquiries was also a factor. The researchers noted that they never observed a hurried enquiry. One attendee wrote to the Connétable of the parish to commend the Centenier for his pleasant attitude. He stated that it was a pleasure to pay the fine.

It was clear that personal qualities were used to the full in order to provide a flexible, adaptable service that was acceptable to attendees. The communication, negotiation and mediation skills of some Centeniers were noteworthy and the researcher observed potentially unpleasant scenes diffused in a matter of minutes without recourse to the power of arrest.

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<sup>39</sup> Some attendees expressed disquiet at the waiting time to see the Centenier on the evening of the enquiry. Most parishes offer a “first come, first served” system with all attendees expected to attend at the same time. It should be noted that the same system operates in Magistrates and Youth Court where offenders are requested to report at either 1000 or 1430 where cases are usually dealt with in list order.

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## 10. VICTIM OFFENDER MEDIATION AND RESTORATIVE JUSTICE

In this section we return to a more detailed consideration of the theme of restorative justice, and consider the involvement of victims in enquiries. We draw on interviews with victims which were carried out as part of the evaluation of Jersey's Restorative Justice Project, and also provide examples of restorative justice in practice in Parish Hall Enquiries.

### RESTORATIVE JUSTICE

In Jersey "Restorative Justice" is by no means a new concept. Centeniers, through the Parish Hall Enquiry system have for centuries been demonstrating initiatives that have more recently been defined as "Restorative Justice". The Jersey system is set apart from other initiatives for a number of reasons:

- It begins and ends in the community
- It exists outside the criminal justice system
- It is everyday use as an alternative to a court appearance
- It is mainly resourced by the community, not the state
- It is a highly developed system
- It is adaptable and flexible
- It is a cost effective solution when compared with the imposition of formal orders.
- It is the conventional response to offending behaviour in Jersey
- It is not as victim focussed as other initiatives
- Any reparation is parish-focused.
- Victim are usually not present at enquiries, put a victim perspective is mostly discussed by Centeniers.

### VICTIMS

It is unusual for the victim to attend in person at the Parish Hall Enquiry. (Some Centeniers stated that they may permit access providing they feel that risk of violence towards the offender is minimal). Given the close-knit nature of the rural parishes, the Centenier may well be acquainted with the victim and therefore aware of any impact. This is far less likely in the urban parishes. It seems that the victim is able to get involved as much as the Centenier permits. Victim support organisations have, in the past, challenged the intervention of the Centeniers accusing them of heavy-handed tactics and re-victimisation (domestic violence cases specifically). What is certain is that the Centenier is able to ask the opinion of the victim before, during and after the Parish Hall Enquiry and to take those views into account when deciding upon an appropriate sanction.

The Restorative Justice Conferencing initiative was introduced into Jersey in 2002. This was linked to the Crime and Community Safety Strategy (latterly the Building a Safer Society Strategy) via objectives to look after the victims of crime and to re-

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integrate offenders and prevent re-offending. Centeniers, through the Parish Hall Enquiry system, have for many years been practicing “restorative justice initiatives”. Conferencing was not intended to replace one traditional and successful justice initiative with one from overseas. The intention was to complement and build on the practices that are already established and successful in our society.

Conferencing seeks to assure that the victim is at the centre of the process. The primary goal is to make good and repair the harm done by crime to the victim, the community and the offender. Offenders must accept responsibility for their actions before restoration can take place. By replacing the state with a human victim, offenders are able to reflect upon the actual harm caused, both to the victim and to the community. The process is inclusive, and may extend to whole community involvement.

Since the inception of the initiative in 2002, a dedicated Restorative Justice Officer has conducted twelve face to face conferences and over thirty indirect initiatives such as mediating compensation payments and facilitating letters of apology. This work has been conducted at Parish Halls, in schools and at HM Prison La Moye.

The following extract demonstrates some of the features of a restorative justice conference:

#### **Box Four (Extract)**

##### Restorative Justice Conference

Three youths appeared at a country Enquiry regarding the alleged offence of taking and driving away of a golf buggy and of malicious damage to the course. The Centenier had deferred his decision for three months. Following the Enquiry, the boys had agreed to take part in a restorative justice conference. The Centenier had also requested a curfew from 8pm to 8am.

The conference comprised the three youths (Andrew, Ben and Charlie\*) with one parent each to support them. The manager of the golf course was present as was the green keeper. A Centenier was present from the relevant parish.

The following is a précis of the discussion taken from contemporaneous research notes:

Restorative Justice Officer (RJO): Thank you for coming today. I know it has been difficult co-ordinating babysitters and taking time of work. .. Everybody will have the chance to talk. We are not here to decide what is good or bad but to repair the harm that has been done. In your own words, tell us what happened. The police report covers the facts but there is always more to it than that. Let's start with Andrew :

Andrew: I was supposed to be in the house, but I went out and we ended up taking the buggy.

RJO: Can you tell us a bit more. What were you thinking?

Andrew: I thought it was good fun

RJO: How did you feel?

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Andrew: I was happy, we were having fun. We didn't think that we would get into trouble.

RJO: What are your thoughts since then?

Andrew: We shouldn't have done it

RJO: Who do you think has been affected by your behaviour?

Andrew: The golf club

RJO: Ben, tell me what happened

Ben: The same as him.

RJO: Imagine that we don't know any of this. What were you thinking?

Ben: It was quite fun, I wasn't nervous.

RJO: How do you feel now?

Ben: Dunno, I don't like the curfew.

RJO: Charlie, you don't live in the parish. Can you tell me how you came to be here?

Charlie: It was Andrew's birthday and I was sleeping over

RJO: How did you feel?

Charlie: Funny. I got a buzz out of it. I was just thinking that I didn't want to crash it.

RJO: How do you feel now?

Charlie: I wish I hadn't done it.

RJO: What effect has this had on you?

Charlie: I'm not allowed to stay out late or to sleep over with friends.

RJO to Manager: Would you like to explain how this offence has affected you?

Manager: It has had an effect on our elderly members who are not able to get around the course without a buggy. It could also have affected you. If it had toppled over you could have been killed. That is as important to us as what you did. You are very fortunate not to have hurt yourselves. How would you feel if someone damaged your property? I really hope you learn from this. The Centenier has really been good. The result has helped you by not going to Court. When you say "I wish I hadn't done it", I hope it's not because you got caught but because you realise the effect on others.

Green Keeper: I actually drove into work and apprehended one of you. I rang the manager and asked him "do I tell him off and let him go or call the police". It just went from there. I'm responsible for repairing the damage that you caused: the four flags and the sprinkler heads that you ran over. The damage to the green is superficial but I can only re-iterate: I have this recurring dream about the buggy at the bottom of the sixth. If it had gone in at the top, I shudder to think what might have happened. The positive thing is that all the damage seems to have stopped. There is one thing I'd like to know: where did you find the buggies?

Charlie: In the hall

Green Keeper: Did you drive the buggy into the bunker

Andrew: Yes

Green Keeper: I see, there's always been an element of doubt as to whereabouts you got them from.

RJO: Be honest boys, you are not going to get into further trouble for telling the truth, even if it is something that you have not mentioned before

Boys: [further discussion of details of offence]

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RJO: I am now going to ask your parents how this has affected them.

Andrew's parent: We are pretty disappointed. We can't believe he would have done it. They have all learned their lesson. This has affected a lot of people. The hardest thing is that you think your kids are doing well and then you find this out.

Ben's parent: They went out to have some fun. I think they have learned their lesson. I get a call from the police. I was shocked that they had gone out at that time of night. The hardest thing is the trouble and upset they've caused to other people.

Charlie's parent: I thought Charlie was sleeping over at a friend's house. I was still in bed when I got the call from the police. I was upset and shocked and wanted to know what was going on. I had to find babysitters so that I could go the police station. I was very angry with them and in a panic about the damage he'd done. I'm really trying to keep a close eye on him now. The curfew has helped. I know they've found it hard especially as all their friends know that they're on a curfew. It's a lesson to be learned. They shouldn't have done it. It's a curfew for us too. We have to be in by 8pm. If I say let's all go out, it's not really a punishment.

Centenier: Things like this affect just about everybody. The police are diverted to sort out problems, you, your parents, friends, brothers, sisters, staff here and even the members. Centeniers have a very difficult decision to make. In this case, court would have been an easy option. You come, charge, bail, youth court. The Court has a range of powers but work to a tariff. For an offence like this you would probably have got a bind over – a go away and don't do it again. This is harder, and because it is, it is likely that you **won't** do it again. So we Centeniers think that this sort of thing is a good idea. We want you to learn, not set you up to fail. You are all on a curfew and the Constables Officers and Vingteniers have been checking up on you. So it is important that you work through the process, we still have the option to take you to Court at the end of the deferred decision.

RJO: Do you think that you need to do something to repair the harm?

Andrew: I'm sorry for what I did and I've sent them a letter saying so

Ben: Sorry for the damage I've caused

Charlie: We're all really sorry for what we did.

Green Keeper: We think that you guys should come and work on the golf course for two days each to see the work that goes on here. It is tenant land, not just for golfers but for walkers and parishioners and people who overlook it. Lots of people enjoy it. I think you would enjoy the work.

Parents: Excellent idea. I think they **need** to do it.

RJO: I am proud of you boys. Proud that you have chosen the hard road. It was a brave decision to come here today and I do respect you for doing this. Your parents should be proud.

After discussion between all parties, the three boys paid £50 each towards the damage that had been done. They all gave letters of apology to the golf club. They also agreed that as a way of making amends, each boy would work for two days

each in the summer holidays from six o'clock in the morning until two o'clock in the afternoon.

Green Keeper: Six o'clock is very early so set your alarm clock

Parent: They managed to get out of bed that early to do it in the first place!

Centenier: Make no mistake; I'll know if you're not there. I live right on the first tee!

RJO: Is there anybody else who would like to say anything at all?

This has helped bring matters to a close. Thank you all for coming. I wish you all well.

The Restorative Justice Officer kept in touch with the green keeper who was "delighted" with the work the boys had put in. He stated that the boys had worked extremely hard and seemed to thoroughly enjoy the experience. In fact one has asked how old he would have to be to get a summer job there.

\* names have been changed

An evaluation of the initiative undertaken by Miles in 2004 shows that the levels of satisfaction of victims, offenders and participants in the conferencing process are very high. All victims, offenders and participants are surveyed by written questionnaire within seven days of completion of the conference. Information presented here was gathered from 12 victims, 17 Offenders and 35 participants. Analyses of results show the following:

**Table 10.1**  
**Victim status**

	Frequency	Percent
Individual	5	41.7
Business	7	58.3
Total	12	100.0

**Table 10.2**  
**Age Group of Victims**

	Frequency	Percent
under 18	2	16.7
26-35	1	8.3
36-54	2	16.7
corporate victim	7	58.3
Total	12	100.0

**Table 10.3**  
**Did the victim consider the offence to be racially motivated?**

	Frequency	Percent
no	12	100.0

**Table 10.4**  
**Level to which victims had been affected by the offence**

	Frequency	Percent
Very much	5	41.7
Quite a lot	4	33.3
A little	3	25.0
Total	12	100.0

**Table 10.5**  
**Did the victim consider that the intervention had made an impact on the offender?**

	Frequency	Percent
yes	10	83.3
no	1	8.3
wait and see	1	8.3
Total	12	100.0

**Table 10.6**  
**Did the victim feel that their opinions regarding the offence had been adequately considered?**

	Frequency	Percent
yes	12	100.0

**Table 10.7**  
**Did the victim feel that their opinion regarding the offender had been adequately considered?**

	Frequency	Percent
yes	10	83.3
To some extent	2	16.7
Total	12	100.0

**Table 10.8**  
**Did the victim feel that their opinion regarding the effect the crime had upon them been adequately considered?**

	Frequency	Percent
yes	12	100.0



**Table 10.9****Did the victim feel that they had been treated with respect during the restorative process?**

		Frequency	Percent
Valid	All of the time	12	100.0

**Table 10.10****Did involvement with the restorative process change the victim's views about the way offenders are dealt with in Jersey?**

		Frequency	Percent
Valid	yes	10	83.3
	no	2	16.7
	Total	12	100.0

**Table 10.11****Levels of victim satisfaction with conference as a method of resolution**

		Frequency	Percent
	Very satisfied	6	50.0
	Satisfied	4	33.3
	Dissatisfied	2	16.7
	Total	12	100.0

**Table 10.12****Did the conference encouraged offenders to accept responsibility for their actions?**

		Frequency	Percent
	yes	9	75.0
	no	1	8.3
	Don't know	2	16.7
	Total	12	100.0

**Table 10.13****Overall satisfaction with the restorative justice process**

		Frequency	Percent
	Very satisfied	7	58.3
	Satisfied	3	25.0
	Dissatisfied	2	16.7
	Total	12	100.0

In addition to quantitative information, we also asked victims to describe, in their own words, the perceived effect of the conference upon the offender. Their observations generally focussed upon the previously unrealised impact of the offence upon the victim:

He realised the impact on our business, his family and how this could affect any future employment or career prospects.

A similar question was asked about the impact of the offence on the victims themselves. These observations focussed on the sense of closure that the conference provided.

It helped me to get on with my life and move on.

It now feels like the matter has been finished with and can be put out my mind at last.

The most positive aspect was to get together and tell him how I really felt and actually being listened to.

**OFFENDER INFORMATION**

The offender sample comprised 17 offenders with the following characteristics:

**Table 10.14**  
**Age Group**

	Frequency	Percent
under 18	15	88.2
18-25	2	11.8
Total	17	100.0

**Table 10.15**  
**Place of Birth**

	Frequency	Percent
Jersey	14	82.4
England	2	11.8
Other	1	5.9
Total	17	100.0

**Table 10.16**  
**Offence type**

	Frequency	Percent
Assault	4	23.5
Fraud	1	5.9
Malicious Damage	2	11.8
Theft	10	58.8
Total	17	100.0

**Table 10.17**  
**First Offender**

	Frequency	Percent
yes	8	47.1
no	9	52.9
Total	17	100.0

Similar to the victim analysis, there was a high level of satisfaction with the conference process.

**Table 10.18**  
**Did the offender consider that the conference process was fair?**

	Frequency	Percent
All of the time	14	82.4
Most of the time	3	17.6
Total	17	100.0

**Table 10.19**  
**Did the conference process help the offender understand that their actions were wrong?**

	Frequency	Percent
Strongly agree	14	82.4
Agree	3	17.6
Total	17	100.0

**Table 10.20**

**Did the conference help the offender understand the effects of their behaviour on the victim?**

	Frequency	Percent
Strongly agree	16	94.1
Agree	1	5.9
Total	17	100.0

**Table 10.21**

**Was offender participation in scheme worse than expected?**

	Frequency	Percent
Disagree	12	70.6
Strongly disagree	5	29.4
Total	17	100.0

**Table 10.22**

**Did offender resolve to avoid further offending following the conference?**

	Frequency	Percent
Strongly agree	12	70.6
Agree	4	23.5
Total	16	94.1
No response	1	5.9
Total	17	100.0

**Table 10.23**

**Did the conference help the offender to gain a better understanding of victims' feelings?**

	Frequency	Percent
Strongly agree	9	52.9
Agree	7	41.2
Total	16	94.1
No response	1	5.9
Total	17	100.0

**Table 10.24**

**Did the offender show victim remorse?**

	Frequency	Percent
Strongly agree	7	41.2
Agree	9	52.9
Total	16	94.1
No response	1	5.9
Total	17	100.0

**Table 10.25**  
**Did the offender feel that they had been treated fairly?**

	Frequency	Percent
All of the time	15	88.2
Most of the time	2	11.8
Total	17	100.0

**Table 10.26**  
**Did offenders feel that they had been treated with respect during the conference process?**

	Frequency	Percent
All of the time	15	88.2
Most of the time	1	5.9
Total	16	94.1
No response	1	5.9
Total	17	100.0

**Table 10.27**  
**Did involvement change offender views about way offenders are dealt with in Jersey?**

	Frequency	Percent
yes	14	82.4
no	3	17.6
Total	17	100.0

**Table 10.28**  
**Overall level of offender satisfaction with Restorative Justice process**

	Frequency	Percent
Valid Very satisfied	9	52.9
Satisfied	8	47.1
Total	17	100.0

**Table 10.29**  
**Has offender re-appeared for similar offence (within one year of conference)?**

	Frequency	Percent
yes	2	11.8
no	15	88.2
Total	17	100
Total	17	100.0

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Again, apart from the quantitative data, offenders were asked to describe in their own words their reasons for agreeing to take part in the conference. Their observations are mainly focussed around the desire to apologise:

I felt guilty and wanted to say sorry

I thought that I needed to sort out what happened and say sorry

I wanted to apologise and show how sorry I was for what I did

Offenders were also asked to describe the effect of the conference:

I was scared but when I got there it was friendly. I saw the effect I had had on others and it gave me a chance to apologise

It has taken a weight off my shoulders. Bringing people together has helped with my feelings of shame and guilt

Similar to victim responses, the most positive aspect of the conference for many offenders was the sense that they had been forgiven for their actions:

The most positive thing for me was the victim telling me that he understood that I was sorry

Being listened to and listening and again to be able to say that I was sorry

It made me feel better that the victim understood why I did it

The overall effect of the conference process upon offenders was noted:

It has taught me to consider others more

The conference showed me how serious what I did was

It had a good effect on me because I am now getting help to change my behaviour

## **PARTICIPANT INFORMATION**

The same sort of data was collected via questionnaire from the other participants in the conference. The written responses received were usually more comprehensive than those provided by the offenders and this section includes a broad selection of the main themes. In addition the researchers held informal interviews with victims, Centeniers and Chantelle Rose, the Restorative Justice Officer.

**Table 10.30**  
**Relationship to either victim or offender**

	Frequency	Percent
Parent	19	54.3
Teacher	3	8.6
Friend	3	8.6
Other relative	1	2.9
Other	3	8.6
Centenier	6	17.1
Total	35	100.0

**Table 10.31**  
**Gender of participants**

	Frequency	Percent
Female	16	45.7
Male	19	54.3
Total	35	100.0

**Table 10.32**  
**Age Group of participants**

	Frequency	Percent
under 18	3	8.6
18-25	1	2.9
26-35	4	11.4
36-54	24	68.6
55+	3	8.6
Total	35	100.0

**Table 10.33**  
**To what extent have you been affected by the offence**

	Frequency	Percent
Very much	9	25.7
Quite a lot	12	34.3
A little	7	20.0
Not at all	7	20.0
Total	35	100.0

**Table 10.34**  
**Did the conference impact on offender?**

		Frequency	Percent
Valid	yes	33	94.3
	no	1	2.9
	not sure	1	2.9
	Total	35	100.0

**Table 10.35**  
**Was participant opinion regarding offence adequately considered?**

		Frequency	Percent
Valid	yes	31	88.6
	no	1	2.9
	To some extent	2	5.7
	Total	34	97.1
	No response	1	2.9
Total		35	100.0

**Table 10.36**  
**Was participant opinion regarding the offender adequately considered?**

		Frequency	Percent
Valid	yes	32	91.4
	To some extent	2	5.7
	Total	34	97.1
	No response	1	2.9
Total		35	100.0

**Table 10.37**  
**Did participants feel that they had been listened to during contact with R J SCHEME?**

		Frequency	Percent
	All of the time	29	82.9
	Most of the time	5	14.3
	Total	34	97.1
	No response	1	2.9
Total		35	100.0



**Table 10.38**  
**Did participants feel that they had been treated fairly?**

	Frequency	Percent
All of the time	33	94.3
Most of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.39**  
**Did participants feel that they were able to “have their say?”**

	Frequency	Percent
Valid All of the time	30	85.7
Most of the time	3	8.6
Some of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.40**  
**Did participants feel that they had been treated with respect?**

	Frequency	Percent
All of the time	33	94.3
Most of the time	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.41**  
**The extent to which participants were satisfied with the handling of the case**

	Frequency	Percent
Very satisfied	24	68.6
Satisfied	10	28.6
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.42**  
**Participated in agreement to repair the harm?**

	Frequency	Percent
yes	24	68.6
no	1	2.9
To some extent	8	22.9
Total	33	94.3
No response	2	5.7
Total	35	100.0

**Table 10.43**

**Was it beneficial to take part in this conference?**

	Frequency	Percent
yes	31	88.6
no	1	2.9
Don't know	2	5.7
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.44**  
**Did participants consider that the offender has made amends?**

	Frequency	Percent
yes	26	74.3
no	2	5.7
Time will tell	7	20.0
Total	35	100.0

**Table 10.45**  
**Levels of satisfaction with restorative justice conference as a method of resolution**

	Frequency	Percent
Very satisfied	24	68.6
Satisfied	8	22.9
Very dissatisfied	1	2.9
Neither satisfied nor dissatisfied	1	2.9
Total	34	97.1
No response	1	2.9
Total	35	100.0

**Table 10.46**  
**Overall levels of satisfaction with restorative justice process**

	Frequency	Percent
Very satisfied	23	65.7
Satisfied	12	34.3
Total	35	100.0

**Table 10.47**  
**Did the conference encourage the offender to accept responsibility for his/her actions?**

	Frequency	Percent
yes	30	85.7
no	1	2.9
Don't know	4	11.4
Total	35	100.0

**Table 10.48**  
**Would you participate in conference again?**

	Frequency	Percent
yes	35	100.0

Participants were asked to describe in their own words, the effect of the conference on the offender. The principal feature is the effect that the talking process has upon developing an understanding of the consequences of their actions and the opportunity to apologise:

He has a better understanding of the effect of his actions on others. He showed true remorse.

Having met the victim, I felt that my son was able to apologise to her personally and explain to her that it was a really stupid thing he had done and to explain to her that it wasn't deliberately done to her. Just being involved and talking to everyone has made a difference.

It gives people the chance to meet the victim and apologise, which is very hard.

The reconciliation of the victim and the offender was a positive experience for all of us present

I was again very impressed by the way the victim's valid anger was diffused and changed to real concern for the future improvement for the culprit- who also felt he could now move forward "forgiven".

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Participants also articulated their views clearly over the difference between these types of resolution compared to a Court appearance:

It puts the offender under a lot of pressure to discuss things. That wouldn't happen in Court.

She could have just gone to Court and just sat here without having to face the victim or the family

He has learned a valuable lesson without having to go through the courts. Court would have been too easy.

It was so much more productive than a court hearing and sentence. Good will come from it.

Very positive. Better than dragging a teenager through the Courts.

#### **SOME PROBLEMS ASSOCIATED WITH VICTIM OFFENDER MEDIATION**

Roche (2003) raises many concerns about accountability in restorative justice programmes. Some of these do not appear relevant to Jersey. In other jurisdictions there is evidence that indigenous people and ethnic minorities are less likely to be referred to programmes. Others have noted that offenders were only admitted when they were likely to be able to make restitution to the victim. In Canada, La Prairie noted that like Jersey, people with previous convictions (or previous parish hall enquiries) may be systematically excluded from the system. This has been demonstrated to some extent in Jersey through the development of the A + B lists provided by the Magistrate and the constraints of Force Orders.

Referral to a Victim Offender Mediation programme should be less of a problem for Jersey because only the Centeniers have the power to charge. In the case of youth enquiries, the paperwork is also passed to the Probation Service, (or the Children's Service for children aged below 12 years). Once a particular case has been identified by the Probation Service, the Restorative Justice Officer contacts the Centenier to talk about the advantages in advance of the Enquiry. In addition, a number of Centeniers have been trained to undertake Victim Offender Mediation conferencing and all conferences include the participation of a parish Centenier (not necessarily the Centenier who deals with the case) to provide a parish perspective. It would appear that referrals to Victim Offender Mediation are as high as they can be for cases that are heard at Parish Hall Enquiry.

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## 11. COMPARABLE INSTITUTIONS IN OTHER JURISDICTIONS

This section compares the Parish Hall Enquiry with some other examples of community justice and restorative justice practice around the world, including both modern and traditional variants. Whilst there are no exact or even close equivalents, some similarities are noted, particularly between the role of the Centenier in Jersey and some reported practices of the 'Lensmann' in rural areas of Norway. This is intended as an illustrative selection rather than a comprehensive survey of international practice, but reference is made to such surveys for readers who wish to delve more deeply.

There is a broad range of examples of informal justice in criminological literature. The discipline of Social Anthropology has introduced a number of examples of dispute resolution from other cultures. For the purposes of this report, we have included a brief outline of informal justice resolution from across the world. Although there are examples of informal justice mechanisms in the British and International context, there is nothing that combines the multiplicity of features that comprise the institution of the Honorary Police, the role of the Centenier and the vehicle of the Parish Hall Enquiry. However, many of the elements described do exist within the Jersey Honorary system. To a greater or lesser extent most are effective in maintaining order managing conflict in the community. Many of the examples demonstrate elements that are in everyday use in Jersey as means of informal dispute control before, during or instead of the Parish Hall Enquiry.

### AFRICA

Many tribal communities operate a system of 'moot' under a variety of different names and procedures. These aim to bring the disputing parties together to reach an agreement. A mediator is chosen by the complainant to conduct proceedings and ensure fair play. The aim of the moot is to reach an agreement between all parties. Importantly there is no attempt to attribute blame but to achieve consensus through mediation. The moot takes place promptly and is held in informal surroundings. For example, the Kpelle people of Liberia (Gibbs, 1963) allow observers to take part in the proceedings. The Kpelle moot system operates alongside courts that are used for cases of assault and theft. Importantly, the court only hears cases where 'the litigants are not linked in relationship after the trial'. The courts are felt to be too authoritarian in style and restrict the opportunities for full and frank discussion provided by the moot.

Gulliver (1963) has described the informal methods of the Ndendeuli community of Southern Tanzania. The preferred method of dispute settlement is by community discussion. Third parties join in as either disputants or supporters. Gulliver describes these as members of an 'action-set'. After the establishment of the facts to the satisfaction of both parties, the discussion continues until settlement is achieved. The Ndendeuli refer to socially accepted rules and the importance of maintaining the harmony of the community. In achieving settlement, the possibility for bargain and compromise are crucial to the process.

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This characteristic introduces an element of flexibility which provides leeway for successful negotiation. Were the rules clear-cut, one avenue of compromise would be unavailable (Gulliver 1963:128).

In Uganda, the Soga legal system exists alongside a national system of law imposed by the British (Fallers 1969). The system is manned (sic) by the indigenous Basoga and functions 'within, and beside, the British system of Magistrates and Higher Court. Allocation of cases depends upon the ethnicity of the parties. Africans go to Soga courts and Indians and Europeans are referred to the British Courts. Serious offences, such as murder and rape are automatically tried by the British Courts regardless of ethnicity. Appellate jurisdiction is exercised by the British Magistrates although rarely used. Despite the uncharacteristic lack of administrative control by the British, the Soga system is constrained by a number of regulations and ordinances. Fallers refers to "fact-mindedness" in his descriptions of arguments and decisions in Soga law:

Basoga in court very seldom talk about the law – about the reach of concepts of wrong. They talk about the "facts" – about what happened- without articulating the legal significance of these events (Fallers 1969:320).

Despite obvious cultural differences, some of the mechanisms employed by tribal communities are relevant to Jersey but are not evident in present-day western theory and practice.

## **CANADA**

For centuries, "Circle sentencing" was used in a large number of Canadian Aboriginal communities. This involves community meetings to deal with family and community issues that are deemed to be the cause of crime. The circle comprises victims, offenders and their respective supporters. Importantly, any member of the community is welcome to participate in the circle. One or two people are selected to act as 'keepers of the circle' who facilitate proceedings, mediate disagreement and guide the circle in the decision making process. Hearings are based on the principles of mediation, traditional peacemaking processes and the desire for consensus. At the outset 'keepers' outline the purpose of the circle and issue guidelines to the members.

Speak from the heart, remain until the end in the circle, allow others to speak by speaking briefly, and respect others by not interrupting and by recognising the value of their contribution(Stuart cited in Galaway and Hudson, 1996:199).

At the end, the circle is closed by summarizing the proceedings, outlining the next steps and thanking all present for their participation. Supporters of this method of dispute resolution highlight the total community involvement as a particular strength.

Navajo traditional justice methods are based on concepts of freedom and the belief that individual does not have the right to impose his will upon another. Disputes are settled by the victim approaching the perpetrator and asking for the wrong to be made right. If settlement cannot be reached, the victim may approach a community

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leader (the peacemaker) and request a 'peacemaker process'. As with the circle sentencing in Canadian communities, the process is non-confrontational and involves family and community members. The peacemaker guides the process, working towards a resolution and agreeing an action-plan to settle the dispute. These traditional methods were outlawed in 1892 when the Bureau of Indian affairs imposed a Western-style court system upon the Navajo. The rules of this court criminalized many Navajo practices such as polygamy, brideprice and consultation with medicine men. Paid police officers replaced clan leaders and judges replaced the community in the administration of justice. This had the effect of weakening the effectiveness of families and clans to police themselves.

After decades of conflict, the Navajo returned to their traditional practices. Navajo Peacemaker Courts were formally established in 1982. These are considered to be "court-annexed systems of popular justice". They are organized by community leaders who preside over a traditional Navajo trial, held in the community where the dispute arises.

In Canada, legal recognition has been granted to the role of restorative measures in sentencing and prior to charge. Consideration of all available sanctions other than imprisonment is required. This particularly applies to offenders of aboriginal origin

## **NEW ZEALAND**

As with Canadian Aboriginal and the Navajo examples, illustrations from New Zealand demonstrate the similar beliefs that justice involves restoring balance by compensating victims for their loss, promoting family responsibilities and the primacy of community involvement (Maxwell and Morris 1994, 1998; Jervis 1996). Traditional practices encompass restorative principles and presume collective responsibility for offending and restoration. The traditional practices disappeared from everyday use in the aftermath of colonization by the British in 1840. Colonialism required that the law deal with individuals and did not encompass the notion of community responsibility. Described as comprising "quaint customs", the British quickly sought to impose English forms of justice and punishment upon the indigenous population. The Maori people were forced to renounce their cultural heritage and institutions in return for the "gift of civilisation".

An important point in the operation of restorative justice schemes is the creation of law that legitimises their existence. Many schemes have been set up as a result in a change in legislation to allow restorative measures to be applied at different points in the life cycle of the case.

In New Zealand, the Children, Young Persons and their Families Act (1989) introduced the opportunity for the Family Group Conference to take place between arrest and sentence. The development of Family Group Conferencing relies heavily upon the forms of participatory justice demonstrated by the Maori. Conferences aim to move away from the individualism of victim/offender mediation practice through the involvement of the community in the participatory process. Although informal in nature, the Conference seeks to produce a plan of action to repair the harm and assist the offender. A key feature of the conference is the expectation that the offenders and their families will be given time to propose a plan to be discussed by

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the whole conference. 80% of the less serious offences are diverted from Court (Graef 2001). For the remainder, the Conference replaces the court process. The action plans are presented to a Judge, who usually defers the decision for a three-month period for the plan to be executed. If at the end of the prescribed period, the actions have been completed to the satisfaction of all parties; the case is discharged with no separate penalty. This ability to monitor the outcome is a benefit over the individualism of victim/offender mediation where the offenders' commitment to reparation may not be followed up.

## **SCOTLAND**

Although not designed to be specifically 'restorative', the Children's Hearing in Scotland is an established example of an informal but official process operating in a modern context. The Scottish Juvenile justice system is characterised by a more dominant 'welfare' ideal than that of England and Wales. Following recommendations made by the Kilbrandon committee in 1968, a new separate procedure was established so that all children, offenders or otherwise would be removed from the Court system. As in the 1968 White Paper "Children in Trouble", Kilbrandon was critical of existing court structure and procedure.

Unlike the situation in England and Wales, the committee guidelines were implemented; the punishment approach was rejected to allow for the application of welfarist principles. The establishment of a juvenile panel staffed not only by child welfare specialists but a cross section of the community was recommended. The panel would therefore comprise members of varying class, age, occupational and income groups. The decision to refer a child to the panel would be made by an independent official known as the Reporter. The panels would then concern themselves with the appropriate disposal of the child and not adjudicate upon the facts of the case. Parent and child are required to accept the grounds for referral. If there is disagreement the case would be referred to the Sheriff's court for adjudication. It is important to remember then that the Scottish system does not comprise solely of the hearing system but also the Courts, as in England and Wales. For serious offences, Children may be referred directly to the Sheriff or the High Courts, bypassing the hearing system entirely. (The same premise applies to Jersey, where the Centenier charges directly to Court and does not conduct a Parish Hall Enquiry)

The Scottish system without doubt fulfilled its aim of removing the majority of juveniles for the Court system. At first sight, the Scottish system may appear to offer greater 'justice' to young offenders than the English system due to the proliferation of welfare values. But there are several potential difficulties. These commence with the discretionary power endowed upon the Reporter whose role is to determine whether certain criteria are sufficiently serious to warrant referral the Hearing. In addition, the child is not entitled to legal representation although parents have a right to be present at all stages of the process, unlike in England. This may deny the child the right to the 'justice' afforded to adults because the child has to admit guilt without advice prior to admittance to a hearing. It is possible that a child who denies an offence and is therefore catapulted into a court may ultimately fare better when an advocate will test the evidence and mitigate on behalf of the child. (In Jersey the same right to legal



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representation is denied to children at Parish Hall Enquiry level although a parent or guardian must be present).

The Scottish system has long been promoted as a model upon which to base the reform of the English system but has never been adopted as an alternative to formal court processing.

## **ENGLAND AND WALES**

There are a number of examples of restorative measures operating in the United Kingdom. The use of compensation orders began in 1972 under the Criminal Justice Act. Community Service Orders also began in 1972. These are considered to be restorative measures although the victims do not benefit directly. Most schemes involve working on local community projects. Later legislation provided by the Crime and Disorder Act (1998) allowed for the imposition of Reparation Orders. Young offenders are ordered to carry out work to benefit either the victims (if the victims agree), or to benefit the community (if the victim refuses participation). There are a number of restorative cautioning and restorative justice schemes running throughout the United Kingdom operated by Police, Probation or voluntary organisations. Evaluations of these schemes report varying levels of success. The schemes, being vulnerable to funding cuts and political climate, were viewed by the evaluators as 'fragile'. Criticism was levelled at the speed and levels of intervention. Data regarding the effectiveness of these schemes if measured in terms of re-conviction is so far lacking (Miers 2001).

It appears that restorative justice is a labour-intensive and time-consuming activity, with a great deal of preparatory and exploratory work – a significant proportion of which does not ultimately bear fruit (Miers 2001: 123)

## **EUROPE**

Whilst some European jurisdictions have Legislation that provides for restorative measures, others do not. Provision of mediation in Denmark and Finland has no specific legal base. Mediation takes place before trial; and successful or not, does not replace prosecution or disposal (Miers 2001).

## **UNITED STATES**

In the United States, a number of schemes operate at different levels throughout the formal justice system. The court runs the Night Prosecutor's Program in Ohio. The Institute for Mediation and Conflict Resolution and Neighbourhood Justice Centres all offer mediation services as an alternative to formal court processing.

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## AUSTRALIA

In Australia, the Community Justice Centers are reinforced by law and can also be used as an alternative to arrest. These are well established and demonstrate a high level of success in mediation. Cases which are pending in the court system can be referred for mediation; and as with other models, if successful court proceedings will be discontinued. All of these schemes aim to speed up justice, resolve a high number of disputes and be accessible. Most operate outside of normal working hours and cater for non-English speakers. An important factor is cost-effectiveness and most schemes prove to be relatively inexpensive compared with the cost of formal court processing. Restorative Policing initiatives exist in Canberra and the family conferencing initiatives in Wagga- Wagga are well documented (see Strang et. al 1999; Moore and O'Connell 1994).

## NORWAY

The idea of the Norwegian 'lensmann' is probably the closest thing to a Centenier in the literature. The Norwegian criminologist, Nils Christie (1982) describes an 'ancient and highly active' institution is also an apt description for the institution of the Centenier.

These persons (usually male) act as a sort of sheriff, performing numerous civil duties but are also tasked with controlling crime. They live in the district and the role has traditionally passed from father to son. Their ability to act effectively is dependent upon their popularity, although it is not clear from the available literature whether or not they are chosen for the position by members of their own community.

Christie makes an important point about the concept of crime.

Crime is not a 'thing'. Crime is a concept applicable in certain social situations where it is possible and in the interests of one or several parties to apply it (Christie 1982:74).

Just as the lensmann argues that there is no crime in his valley because his definition of 'crime' is inapplicable where his members of his own community merely get drunk and cause a bit of trouble.

The traditional role of the Lensmann has now eroded and the posts are more professionalized than in times past. The Lensmann is required to be professional and attend training college. They are now well-paid and highly organised.

## SARK

An example of a system based on feudal organisation similar to Jersey is presented by the smaller Channel Island of Sark (Faukes 1993). Although part of the bailiwick of Guernsey, Sark has the power to introduce legislation and orders to regulate its

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own affairs. This right was reaffirmed as recently as 1951 under Royal Seal.<sup>40</sup> Controversially, the Island of Sark has recently refused to repeal the death penalty and a number of other ratifications to European Law have been refused.

The island of Sark has 600 inhabitants rising to 1000 during the summer months. As is the case in Jersey, the laws of the Island of Sark Law are based upon “la coutume”, ancient customary law based upon Norman Law dating from the days of William the Conqueror. Law and Order is maintained by the two Sark Constables. Two officers, the Connétable and the Vingtenier, are elected by Chief Pleas<sup>41</sup>. The Vingtenier is junior in rank to the Connétable however the duties are identical. Both positions are honorary, although a small honorarium is available to compensate for loss of earnings. Both Constables have the power of arrest and a duty to present offenders before the magistrate. This magistrate is known as the Seneschal. The postholder is appointed by the Seigneur<sup>42</sup> to serve a term of three years. The Seneschal’s court, which deals with both civil and criminal matters, was established in 1675 after a patent of Charles II abolished the court of Jurats elected by the people. The Seneschal is empowered to sentence offenders to 3 days and 2 nights in Sark jail (a two berth brick-built building). In addition, the Seneschal is empowered to impose fines of up to £1000 and imprisonment of up to two months which must be served in the neighbouring island of Guernsey. The system of preliminary investigation available through the Parish Hall Enquiry in Jersey does not operate in Sark and offenders are brought directly before the Seneschal’s court which convenes in the Island Hall.

Enforcement of the order of the court is the duty of the Prevôt, also appointed by the Seigneur. Duties include the collection of fines and the supervision of prison sentences. This latter responsibility includes feeding the prisoners and transferring offenders to the Guernsey prison authorities. Although traditionally entitled to keep the fine-monies, Prevôt is now paid a small retainer for the service provided.

The Sark system provides a rare, probably unique example of a feudal policing system in everyday use. There are obvious parallels with the Jersey system<sup>43</sup> although the enforcement officers are appointed by Chief Pleas rather than by election of the ratepayers.

## **GUERNSEY**

In 2004, following the Channel Island of Guernsey introduced a system based upon the Scottish Children’s Hearing. The Child, Youth and Community Tribunal (CYCT) aims to take into account the unique features of the Bailiwick of Guernsey and improve on some of the aspects of the Scottish system.

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<sup>40</sup> “ Chief Pleas may make ordinances as heretofore, for the maintenance of public order and for the regulation of the local affairs of the Island” Reform ( Sark) Law, 1951

<sup>41</sup> The governing body of the Island

<sup>42</sup> Seigneur – a hereditary position as head of the Island’s governing body

<sup>43</sup> The rank of Centenier is absent in Sark. Although established in 1581 by Jerseyman Edward de Carteret during a bid for independence. (Faukes 1993:99) the Jersey structure that he imposed was revoked and the office of Centenier never reinstated.

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## JAPAN

In Japan, the principle of voluntary involvement in community affairs is strong. Reliance on family and local community for welfare is expected and public expenditure of welfare is low. Like Jersey, welfare payment serves to provide a safety net in place of a universal provision. Levels of crime in Japan are low. The Japanese example of neighbourhood police posts provides an international comparison for Jersey.

In rural areas the “Chuzai-sho”, rural police posts are staffed by officers who are appointed and paid to perform the policing task. The officer relies upon personal knowledge of the local neighbourhood and occupants to perform his duties, most of which are unrelated to investigating crime. The urban equivalent of the Chuzai-sho, the Koban has many parallels with the Parish Hall and residents use the building as a community resource. The police based at the Koban provide a number of services that are not linked solely to the detection and investigation of crime. Advice on issues such as housing, employment neighbourhood disputes, poverty and refuse collection is offered.

The Japanese police are service-oriented. They spend much time and energy providing assistance and services to the general public. They are constantly supplying information to people lost or trying to find particular premises; and they search for young runaways and provide a regular counselling and guidance service at the police stations and by telephone. People are encouraged to bring any problems at all to the police (Clifford 1976:80, cited in Mawby 1990:113).

The Japanese Koban officers are nicknamed “omawari san” or “Mr Walkabout”. They spend much time on patrol talking to the public. They have considerable discretion to ‘no crime’ minor incidents or take informal action against offenders. Bayley offers the interesting analogy of the postman:

A koban is an active force in community life; it is not simply a passive source of police assistance....An American policeman is like a fireman, he responds when he must. A Japanese policeman is more like a postman; he has a daily round of low-key activities that relate him to the lives of the people among whom he works (Bayley 1976:91 cited in Mawby 1990:115).

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## 12. PARISH HALL ENQUIRY STATISTICS

This section of the report presents a broad overview of trends noted at Parish Hall Enquiries taken primarily for Probation Service Records. It has been widely acknowledged that the interpretation of criminal justice statistics is complex in Jersey due to the diverse systems operating within the criminal justice system (Rutherford and Jameson, 2002).

The Probation Service operates a computerised case management system that records various criminological data relating to Youths attending at Parish Hall Enquiries. These records date back to 1984 although only records from the past eight years will be presented here. Officers from the Probation Service attend Parish Hall Enquiries concerning young people aged between thirteen and seventeen years. Seventeen year olds have been included in this system since 1994 as a result of legislation which brought seventeen year olds into the jurisdiction of the former Juvenile Court.

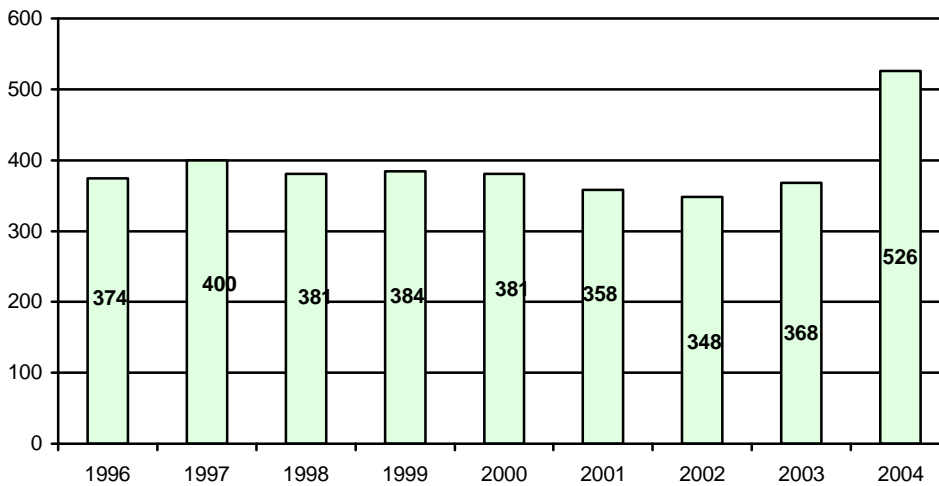
**Since January 2004, the Probation Service have adopted new methods of counting enquiries and now include all offences committed by children whereas previously only the more serious offences were recorded. Minor motoring offences, speeding and construction and use offences were hitherto excluded from the statistics. Following concerns raised in other quarters about the perceived rise in the level of youth crime, the Service adopted an all-encompassing recording policy in line with other agencies. This increase therefore may not indicate that there has been a rise in youth crime, rather a result of a more sophisticated and sensitive method of measurement. It is therefore unhelpful to make concrete comparison with statistics gathered in previous years without acknowledgement of these changes.**

Reconviction data has been provided by the States Police from Police National Computer Records.

## PARISH HALL ENQUIRIES ATTENDED BY THE PROBATION SERVICE 1996-2004

The Parish Hall Enquiries attended by the Probation Service in 2004 increased considerably from 368 in 2003. This represents an overall increase of 43%.

**Chart 12**  
**Parish Hall Enquiries attended by the Probation Service 1996-2004**



The following chart shows the distribution of Enquiries attended by the Probation Service in respect of youths across the parishes for 2003 and 2004:

**Table 12.1**  
**Distribution of Enquiries attended by the Probation Service**

Parish	2003	2004
PHE - St. Helier	236	312
PHE - St. Saviour	67	56
PHE - St. Clement	21	28
PHE - St. Brelade	18	48
PHE - St. Peter	7	15
PHE - St. Lawrence	6	23
PHE - St. John	5	0
PHE - Trinity	4	1
PHE - St. Martin	2	10
PHE - St. Ouen	2	21
PHE - Grouville	0	12
Total	368	526

Table 12.1 requires careful interpretation. Although percentage rises are high, actual numbers in some cases are quite small. For example, the rise from 2 cases to 10 cases in St Martin represents an actual increase of 400%.

It is perhaps more useful to examine the seriousness of the offences dealt with during Enquiries. Of particular note is the rise in minor offences dealt with in 2004.

The States Police have introduced a highly effective intelligence led policing model and Operation Focus initiatives have served to suck in a great deal of hitherto unrecorded offending to the official statistics. It is for this reason that a rise in the number of Parish Hall Enquiries should not be interpreted as a rise in the rate of crime per se, rather an indication of differing policing methods

**Table 12.2**  
**Offences for Enquiries attended by the Probation Service**

Parish Hall Enquiry Offences	2000	2001	2002	2002	2004
Assaults	34	16	25	32	36
Drug Offences	16	25	16	15	34
Larceny	79	80	83	71	81
Motoring Offences	111	96	118	123	181
Breaking/Illegal Entry	9	19	6	7	10
Fraud/Forgery	4	2	0	1	4
Disturbing the peace	29	23	19	31	55
Drunken Behaviour	20	15	18	19	21
Taking & Driving Away	7	11	17	11	15
Damage to property	27	47	20	27	35
Sex Offences	0	0	1	0	0
Obstructing the Police	4	6	11	7	24
Licensed premises	28	8	7	13	14
Receiving	5	6	5	4	8
Hoax/Annoying telephone calls	3	1	0	1	4
Fire Service Law	4	2	2	3	0
Offensive Weapon	1	1	0	1	4
Protection of animals	0	0	0	2	0
<b>Total</b>	<b>381</b>	<b>358</b>	<b>348</b>	<b>368</b>	<b>526</b>

The highest percentage rises are to be found in the category of obstructing police (243%); drug offences (126%); receiving (50%) and motoring offences (47%).

Location is also a factor. Rises are particularly prominent in parishes where a high police have been targeted at the 'hot-spots' identified according to the intelligence model. Most of these are in the urban parishes and therefore seem to be generating a higher level of attention to minor offending than in rural parishes. The type of offending detected across the parishes tends to confirm this hypothesis. Whereas the offence of Speeding was detected evenly across the parishes, of the 22 offences of Obstructing Police, 18 (82%) were detected in the Parish of St Helier. A similar pattern emerges with public order offences: of 55 public order offences, 69% were detected in St Helier. The same follows for drunken behaviour, where the majority of alcohol related offending seems to be detected in town: 19 of 21 offences of this nature (90%).

**Table 12.2**  
**First Offenders Appearing at Parish Hall**

Parish	2001	2002	2003	2004
PHE - Grouville	5	3	0	5
PHE - St. Brelade	11	19	9	29
PHE - St. Clement	14	21	12	17
PHE - St. Helier	140	120	144	142
PHE - St. John	0	2	2	0
PHE - St. Lawrence	4	2	4	9
PHE - St. Martin	3	0	0	1
PHE - St. Ouen	3	2	1	8
PHE - St. Peter	9	7	4	6
PHE - St. Saviour	28	31	38	19
PHE - Trinity	2	0	1	0
Total	219	207	215	236

The number of first offenders appearing across the parishes has remained relatively constant over a four year period with the exception of St Ouen and St Brelade where there are large increases over a one year period.

**Table 12.4**  
**Percentage of offenders dealt with by either words of advice or a written caution at Enquiries attended by the Probation Service.**

1997	1998	1999	2000	2001	2002	2003	2004
40%	51%	53%	53%	72%	75%	64%	51%

In 2004, 51% of Enquiries resulted in the young person being cautioned or given and absolute discharge. This is a 7% decrease on the 2003 figure of 64% and a 21% decrease on the 2002 figure. This continued decrease suggests that Centeniers are becoming less tolerant of criminal behaviour, possibly as a result of increased persuasion from the States Police and the Magistrate to change traditional practice and conform to managerial demands for consistency. Deferring the decision to prosecute for a period of months remains popular with Centeniers and was used in 23% of Enquiries (24% in 2003). At the conclusion of the deferment period, the Centenier will either take no further action or issue a written caution.



In 2003, 18 % of cases were charged to Court from Parish Hall. In 2004 this figure reduced to 10% suggesting that the filtering process is in operation at Police Headquarters rather than in parish halls. The Probation Service prepared 95 Social Enquiry Reports in 2004 on Youths who were charged directly to the Youth Court by the Centenier at Police Headquarters without the benefit of attendance a Parish Hall Enquiry.

**Table 12.5**  
**Main offence committed by offenders who did not attend a Parish Hall Enquiry**

Main Offence	2002	2003	2004
Assaults	22	22	21
Larceny	7	12	15
Breaking/Illegal Entry	10	8	10
Damage To Property	6	6	10
TADA	9	14	8
Obstruct Police	0	1	7
Drunken Behaviour	2	7	5
Motoring	3	8	4
Disturbing the peace	0	2	4
Drug Offences	2	2	4
Breach of court order	0	2	4
Receiving	2	2	2
Drink Driving	1	6	1
Fraud/Forgery	2	0	0
Annoying Telephone Calls	0	1	0
Arson	1	0	0
Bomb Hoax	0	1	0
<b>Total</b>	<b>67</b>	<b>94</b>	<b>95</b>

The main increases are represented by public order offences, particularly obstructing police and damage to property. Once again, the focus on intelligence led policing of hot spots may have led to an increase in these areas and may suggest that Centeniers are less inclined to use the restorative benefits of Enquiries when dealing with these offenders.

**Table 12.6**  
**Youth Court disposals for offenders who did not attend a Parish Hall Enquiry**

	2002	%	2003	%	2004	%
Bind-Over Standard	12	20	26	28	23	24
Bind-Over Drug Awareness	1	2	0		0	
Fine	6	10	10	11	7	7
Probation Order	29	48	38	40	42	44
Community Service	10	17	11	12	8	8
Youth Detention	2	3	4	4	10	11
Other Sentences	7	0	5	5	5	2
<b>Total</b>	<b>67</b>		<b>94</b>		<b>95</b>	

A third of offenders who were charged directly for Court without appearance at Parish Hall were dealt with by either a fine or a Binding Over Order. It is possible that these may have been dealt with at Parish Hall level where the same outcome could have been attained without the attraction of a criminal conviction.

**Table 12.7**  
**Voluntary referrals to the Probation Service from Parish Hall Enquiries (2000-2004)**

	Voluntary Referrals to the Probation Service				
	2000	2001	2002	2003	2004
"Pitstop" programme - under 18yrs	2	8	11	2	0
Voluntary Supervision *- under 18yrs	23	16	22	25	38
Sub Total - youths	25	24	33	27	38
Voluntary Supervision - adults	4	-	2	1	0
<b>TOTAL</b>	29	24	35	28	38

**Table 12.8**  
**Main offences for voluntary referrals**

	2000	2001	2002	2003	2004
Assaults	6	3	4	4	10
Larceny	8	1	4	8	5
Damage To Property	3	1	5	5	4
Drunken Behaviour	4	5	3	1	4
Breaking/Illegal Entry	0	3	2	2	3
Drug Offences	1	0	0	0	3
T.A.D.A	0	0	0	1	2
Animal Cruelty	0	0	0	0	2
Public Order	1	2	1	3	1
Obstruct Police	0	0	0	1	1
Underage Drinking	1	1	0	1	1
Motoring	1	0	3	0	1
Receiving	0	0	0	0	1
Sexual Offences	1	0	2	0	0
<b>Total:</b>	<b>27</b>	<b>16</b>	<b>24</b>	<b>26</b>	<b>38</b>

**Table 12.9**  
**Parish Hall Reconviction Information (Youth Attendees – 2002)**

Sentence	Re-sanctioned at Parish Hall within 12 months of sanction	Reconvicted in a Court within 12 months of sanction
Written Caution	13%	5%
Words of Advice	13%	3%
Deferred sentence	20%	1%
Voluntary Supervision	23%	23%

**Table 12.10**  
**Re-conviction Information – Community Service and Binding Over Orders**

Sentence	Reconvicted in a Court within 12 months of sentence
Binding Over Orders	16%
Community Service	16%

Source: Community Sentences in Jersey, Risks, Needs and Rehabilitation (Miles and Raynor 2004)

Tables 12.9 and 12.10 show re sanctioning and reconviction information from Parish Hall and Court sentences. Once again, caution should be exercised in the interpretation of this data. (The cases are not directly comparable because they are

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not randomly allocated between Parish Hall and Court). The comparison is nonetheless interesting as youths subject to Court orders seem to reconvict at a higher rate than those dealt with at a lower level.

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## Part III

### 13. CONCLUSIONS

This section brings together the main conclusions from our evaluation of the Parish Hall Enquiry System as it currently functions in Jersey. In particular, we summarise what this evaluation reveals about the nature and functioning of the Parish Hall Enquiry in context. Two contexts are particularly important. One concerns international research on community justice, in relation to which information about the Parish Hall Enquiry represents a unique addition. The other concerns the criminal justice system of Jersey itself, which is currently subject to review and reforms. We include discussion of community values and justice; ‘horizontal’ and ‘vertical’ conceptions of crime and justice; effectiveness in context; the potential impact of social change; the future of the hybrid policing model, and the future and potential of the Parish Hall Enquiry as a contributor to social order and community cohesion in Jersey.

The earlier chapters of this report have:

- Described the Parish Hall Enquiry in detail, with its social and historical background;
- Described the process, showing the quality of communication to be generally good and guidelines complied with in the majority of cases;
- Shown the capacity of the Parish hall Enquiry to generate flexible solutions, sometimes including restorative approaches;
- Shown that, where information could be gathered on this, the views of participants are generally positive;
- Shown that Parish Hall Enquiry practice contains elements of reintegrative shaming and pro-social modelling which are likely to have a more positive impact on offenders’ behaviour than procedures in which these are absent;
- Attempted, through available figures, to document the throughput and level of activity in the system.

This final report therefore adds further evidence and support to the view presented in the interim report (Raynor and Miles 2003). In spite of some variation in performance and some uneven compliance with guidelines, the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending and makes a very useful contribution to this role. The Parish Hall Enquiry is in effect the conventional response to offending behaviour in Jersey. The system operates within an open model that means that a wide range of options is available when it comes to dealing with offences and dispute resolution. Centeniers recognise the benefits of informal justice and every attempt is made within the Honorary System to prevent offenders entering the formal court process. The model presumes that reintegration is best achieved through a process that begins and ends in the community, not in the formal justice system. In other jurisdictions, interventions are located within the criminal justice system (Anti-Social Behaviour Orders, Referral Orders, Caution Plus, Final Warnings and Restorative Justice Initiatives). What is unique about the Parish Hall system is that it exists *outside* the formal criminal justice system. It is organised and

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mainly resourced by the community. It “defies classification in any modern legal context” (Clothier 1996:16).

### **Community values and justice**

The model has not evolved as a result of specific policies of re-integration but as a result of hundreds of years of community development which have strengthened interdependencies and community cohesion. *All* offending behaviour is considered to be unacceptable and the Parish Hall Enquiry system ensures that the community has an opportunity to articulate disapproval. Centeniers report that the success of the system relies upon reintegrative principles that operate to draw the attendee back into the community. The fact that attendees must discuss their behaviour at the Parish Hall for the parish in which the offence was committed is a first step in this process. In Jersey, this will never be more than two miles away from the scene of the alleged offence. The island is fortunate to have been able to maintain the community conditions that make reintegrative shaming possible. As we noted in the introduction, the effect of social change on many modern communities has been to create clusters of strangers where reintegrative processes are difficult to establish and shame has little effect on social control.

Referring to the establishment of community justice principles in Oregon, USA Martin (2002) considers a number of core principles that are required to create, maintain and develop safe communities:

- The active collaboration of citizens, elected officials, and public and private service agencies in community governance
- A focus of preventing social problems rather than curing them
- Recognizing and building on community strengths and assets
- Involving community members in defining and resolving problems before they escalate to crises
- Repairing harms done to victims of crime and their communities
- Holding offenders accountable and improving their competency to be productive community members (Martin 2002:138)

Jersey is in the fortunate position of not having to recreate artificially these community justice values, having maintained systems of honorary service for many hundreds of years. The honorary systems have worked for centuries to promote the development of employment opportunities, education and training, the reinforcement of positive behaviours and pro-social modelling. These are all areas that “What Works” theorists recognise as crucial to reducing recidivism and the establishment of safer communities (Andrews and Bonta 1998; McGuire 1995; Trotter 1999). The Australian criminologist John Braithwaite offers the following insight about low crime communities which is very relevant to the Jersey context:

Low crime societies are societies where people do not mind their own business, where tolerance of deviance has definite limits, where communities prefer to handle their own crime problems rather than hand them over to the professionals (Braithwaite 1989:8).

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This research demonstrates that the honorary system and the role of the Parish Hall Enquiry are important because they both foster a sense of community and interdependence that is crucial to the establishment of a safe society through the long term prevention of crime. Such familiarity breeds social control and may go some way to explaining the low levels of crime in Jersey compared with other jurisdictions of a similar size. Gossip and scandal are popular pastimes in small communities and Jersey is no exception. Public scrutiny of private events is part of the cultural thread. Public humiliation through the shaming techniques of the local media is much feared. Social life however is changing, and the implications of change are discussed further below.

## **Notions of Crime**

The Norwegian Criminologist, Nils Christie offers the following relevant observation:

Crime does not exist. Only acts exist, acts often given different meanings within various social frameworks (Christie 2004:3)

Finding a suitable definition for the notion of 'crime' in Jersey is particularly problematic. Acts which are considered criminal will vary according to the history and cultural definition of a given community. In Jersey an act which occurs in a particular parish is given the definition of 'crime' according to the specific response of the investigating officer (honorary or States). For example: a young person detected skateboarding on a pavement in St Ouen by an honorary officer is unlikely to be warned to attend at a Parish Hall Enquiry whereas young people detected performing a similar act in St Helier are likely to be invited to attend at the Town Hall, and that act becomes an official statistic. The statistics section of this report refers to the seriousness of the offences dealt with by the parish and suggests that care should be taken with the interpretation of official crime and disorder statistics. Christie also notes that an insufficient knowledge about how a particular community functions can lead to the over application of the term 'crime' to what is considered normal behaviour. Interestingly for the Jersey context, he asserts that social distance permits and encourages an atmosphere of over-punitiveness and is one of the conditions responsible for the stronger use of the penal system.

Christie's concepts of horizontal and vertical justice are relevant to the Jersey situation and offer some explanation for the competing perspectives revealed by this research. Horizontal justice refers to a process where social norms are created through social interaction; through gossip and discussion, social groupings and shared decision-making at a local level. Attention to the past, but concern for the future is important. Similar acts may be given different meanings within each different group (in the Jersey case, the parish). The relevance of a particular decision is not governed by law and there are no pre-defined solutions to dealing with disputes. An open-minded approach ensures that all factors that are considered relevant to the parties concerned are taken in to account in order to create a consensus. Compensation is more important than punishment.

Vertical justice functions according to the principles of formal law. With written rules and precedents, cases are treated equally according to rules. Factors which would

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be considered relevant to the offence in an informal setting can be considered irrelevant:

This type of justice [vertical] is reached by establishing limitations on what can be taken into account; otherwise equality could not be established in this setting. This is in sharp contrast to horizontal justice where the question of relevance is decided among the participants in the process (Christie 2004:77).

The main risk inherent in informality and (in Christie's terms) the horizontal approach is that some carelessness or casualness about formal legal rights can creep into the system. The 1996 Clothier Report identified some examples of this in Parish Hall Enquiries, though without being specific about how often they were believed to occur. They included lack of clarity about whether facts alleged were actually admitted; failure to explain the attendee's right *not* to be dealt with at the Parish Hall level; and failure to ascertain whether the attendee had made an informed choice to be dealt with at the Parish Hall rather than going to Court. We have noted some examples of these and similar problems observed in our study, and have supported Clothier's suggestion of more training and guidelines to ensure more consistent attention to these matters. Some might argue that these are inherent weaknesses of informal processes, and that they should therefore be replaced by more formal processes. Our evidence tends in a different direction: the advantages of informal processes in terms of positive influence on offenders suggest a policy of retaining and improving them rather than allowing them to fall into disuse. Formal processes may appear to offer a more consistent approach to rights, but this is often offset by the offender's lack of engagement or understanding.

In some societies, the localisation and informality inherent in 'horizontal justice' could be an invitation to corruption or to the persecution of unpopular social groups. Direct election of local law enforcement officials may increase their sense of accountability to the community, but this can lead to increased punitiveness where community attitudes are strongly punitive, as we see in parts of the United States. In Jersey, however, the expectations of electors and the traditions of the honorary system tend to favour fairness, impartiality and a problem-solving approach, and this helps to control some of the risks associated with informal systems. In addition, the formal system is fully functional and can act as a check on errors in the informal system. Our research therefore suggests that concerns about the protection of human rights in the Parish Hall Enquiry system are understandable in principle, but in practice should not be exaggerated, and can be to a large extent controlled by improvements in guidance and training.

### **Effectiveness in context**

There are no criminal justice utopias to be found, just better and worse directions to head in (Braithwaite and Mugford 1994)

Participant interviews reveal a high level of satisfaction with the Parish Hall Enquiry process. The reconviction data presented in the statistics section of this report suggest that rates of recidivism following Parish Hall Enquiries are low. It can be said that in the criminological sense at least, the Parish Hall Enquiry system provides

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a better direction combining elements of best practice that other countries are busily trying to recreate. In 2000 the United Nations Congress on the Prevention of Crime and the Treatment of Offenders proposed a draft resolution entitled 'Basic principles on the use of restorative justice programmes in criminal matters'. This resolution recommends the development of restorative justice programmes in all member states.

A comprehensive approach to the question of effectiveness must take into account not only the impact of the Parish Hall Enquiry system on criminal justice but also its contribution to maintaining the credibility and relevance of the honorary system. If Jersey has a flourishing voluntary sector and a strong tradition of honorary service then there is a strong argument for furnishing it with a small amount of money to maintain the benefit. The cost to the taxpayer is low (only 1% of the annual States Police budget is required to underpin the honorary system). The parish rate-payer absorbs the cost of premises and human resources are provided at no cost by honorary officials. It is true that a relatively small amount of public money may be saved by abolishing the parish hall system but we would argue strongly that crime would not be managed as effectively. If the Parish Hall Enquiry and the prosecuting role of the Centenier were to cease, the States of Jersey would be required to fund a replacement at considerable cost. The social cost of losing the honorary system would be high, and its value to the parishes in terms of the administration of justice and community development is inestimable. We know that a proper face to face encounter makes people more ashamed of their behaviour and is more likely to encourage desistance, particularly for less experienced offenders. Traditional face to face communities and processes have collapsed in many countries and expensive, technological and impersonal systems are necessarily being created to fill the void, with little evidence of success.

If you want to tax the public, then administrative fining and postal justice is the way to do it. If you seriously want to change someone's behaviour in the longer term, then a face to face approach which expresses disapproval for that behaviour in an informal setting where full and frank discussion is possible is more likely to work (Chief Probation Officer, Interview Notes).

Organizing and running enquiries is often more time consuming than taking cases to court, without incurring the same costs. The comparative costs and benefits (including participant satisfaction and reconviction rates) would suggest that the system has proved its worth. It would be unwise to reduce the role of such a system unless it can be shown that it is ineffective. This is clearly not the case.

Recent social and policy changes in Jersey have tended to reduce the role of the parish and increase the role of the state in community affairs. Our research suggests that this is not necessarily desirable in the criminal justice field, and we would suggest a cautious approach to policies which are likely to reduce the role of the Parish Hall Enquiry. In this connection, all the parishes where honorary policing is seen as an expression of grass-roots community service have expressed some concern about what they see as attempts by the States Police to erode the powers and discretion of the Parish Hall Enquiry.



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In practice, informal systems have often shown themselves to be effective means of social control and the observation study has shown that elements of an effective Enquiry should have the capacity to reduce further offending behaviour. Court appearances by contrast, often result in sanctions which involve little opportunity for victim involvement and a 'bitterness effect' as a result of the perceived unfairness of the proceedings. In essence, it appears that offenders experience Court processes as something done **to** them, in which their role is essentially passive, whilst parish hall processes require them to participate more, think more and take more responsibility for the offence. The main advantage of the a non-judicial Parish Hall Enquiry system is that it can provide a local, timely, inclusive, sensitive, needs-based, independent forum to deal with a wide variety of norm-violating behaviour and social disorder.

### **The potential impact of social change**

Modernity means to a large extent a life amidst people we do not know and never will come to know (Christie 2004:77).

Jersey has experienced considerable changes in the post war period. From an Island that was economically dependent upon agriculture, it has become one of the foremost financial centres in the world. Finance is now the cornerstone of the Island's economy and much of the skills and expertise to maintain its prominence have been 'imported'. This is also evident in public administration and criminal justice agencies. When the composition of the traditional community starts to erode, the impact of gossip and scandal has a lesser effect. Newcomers may feel less incentive to comply with community norms, primarily because they do not understand them and have less long-term investment in maintaining social peace. The extent to which this influx of 'strangers' will further erode the power of the traditional organisational structures remains to be seen. Baldacchino and Greenwood (1998) present evidence of the role of two competing paradigms at work in small island communities. The first, "common sense" logic is presented by established expertise from other jurisdictions, policy makers and bureaucrats. The second "good sense" is presented as "a haphazard collection of intuitive, local, traditional ideas". Common sense is therefore seen as powerful and legitimate whereas good sense is viewed as primitive and eccentric and therefore illogical and inefficient. Where the two paradigms clash, "common sense" usually prevails. This has not always been the case in Jersey but the influx of expertise from other jurisdictions has the potential to threaten this status quo and makes local and traditional ideas seem antiquated and outmoded. It may not be the case that Jersey community is resistant to change; it is perhaps reluctant to change for change's sake.

The knee-jerk reaction against change of many who value island identity, culture and 'way of life' is largely the result of seeing change imposed from the outside, or seeing outside models uncritically accepted by islanders (Baldacchino and Greenwood 1998:25).

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## The future of policing in Jersey

There is some evidence to suggest that the institution of the Honorary Police is threatened by the changing structure of Jersey society which means that primary, parish-based systems of control are under strain. The economic upturn of the Island offers some explanation as to why this should be so. High cost of living and rates of inflation contribute to a high proportion of adult working population. The old industries of agriculture and fishing have mostly disappeared. Quite often, parishioners simply do not have the spare time to devote to honorary service.

Recruitment and retention of honorary officers is cited as the single most important challenge facing the parochial system by those who operate within it. Population demographics may provide an insight into the apparent decline in parishioners able to offer themselves for honorary service. Census records show that in 2001, 82% of the working age population were economically active; of these about 6 out of every 7 were either working full time for an employer or were self-employed). The economic activity rate in 2001 compares with a rate of 77.5% for the working age population in 1981 (Gibaut D, States of Jersey Census records).

Bayley (cited in Mawby 1990) poses some interesting questions about the effect that economic development has had on crime prevention and on the distribution of responsibility for social discipline between the state and the community. He also questions whether social control over behaviour is greater or less in developed countries. Jersey is highly developed in a number of ways but still retains a number of traditional institutions, and the honorary system exercises a high level of control in a number of areas.

Are communities more or less willing to shoulder responsibility for preventing indiscipline in developed or underdeveloped countries? It is interesting that worldwide attention to 'community policing' originated in developed countries. This may not be because less developed countries didn't have it, but because they hadn't thought to call it by a new name (Bayley, cited in Mawby 1994:9).

The future for the model of honorary policing is the subject of much controversy. The change of focus towards enforcement rather than prevention is a factor. In the case of the States' Police, central government accepts responsibility for the provision of service and the control of standards. Matters of Health and Safety, Human Rights and Public Liability hitherto irrelevant to voluntary organisations, are serious issues that require careful consideration by the Comité des Connétables.

The ideal is that both States Police and Honorary Police should be mutually supportive. The 'Memorandum of Understanding' goes some way to achieving this ideal. Allowing decision-making to remain with the community helps to ensure a focus on the long term goals of rehabilitation and reintegration rather than the short term demand for punishment and retribution. The States Police have a role to detect and investigate crime whereas the Centenier, the elected community representative decides at which point in the justice system an offender should enter, if at all.

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## 14. THE FUTURE OF THE PARISH HALL SYSTEM

This section looks to the future, and considers some possibilities for the development of the Parish Hall Enquiry system.

Since 2002, there is evidence to suggest that the traditional role of the Centenier's Enquiry is being eroded by modern attempts at reform in order to achieve measurable outcomes. Rutherford and Jameson (2002) observed that the Parish Hall Enquiry is "withering on the vine". Their recommendation that the role of the Parish Hall System should be strengthened has been echoed by the Probation Service and is a fundamental pillar of the newly formed Youth Action Team.

Over a period of 40 years, the process which was so clearly initiated and controlled by a Centenier has seen the transition from the complete non-involvement of the state to open intervention in order to promote what is considered to be "fairness", "justice" and "consistency". Attempts to achieve procedural uniformity and consistency run the risk of undermining the flexibility and responsiveness to the circumstances of the individual case which appear to be essential components in the system's current effectiveness. The requirement to take an increasing range of cases direct to Court risks diminishing the role of the Parish Hall Enquiry. In addition, some high-profile individuals in the criminal justice system have been particularly active in seeking to reduce the Enquiry's powers and discretion.

In practice, we have heard reports that police officers sometimes tell victims or witnesses that a particular offender will be charged with an offence. Centeniers report being put under pressure to charge offenders. This reduces the status of the Centenier to that of a rubber stamp endorsing the decisions of the professionals without appropriate scrutiny. In certain cases, this haste to charge has resulted in unfortunate consequences for alleged offenders who were later acquitted due to lack of evidence. Automatic charging for certain offences according to Force Orders may have weakened the position of the Centeniers in the system. Police bail may well be seen to have the same effect making the Parish Hall Enquiry unnecessary. The very many positive benefits of an independent enquiry, conducted after a 'cooling off period' by an elected parish officer, at a neutral place, away from the security and uniforms of the police station is lost in such cases. It should also be noted that many other jurisdictions in many industrialised countries around the world are currently seeking to rediscover the benefits of informal systems which have been allowed to fall into disuse. Often this is happening because modern, high-cost systems of law enforcement and adjudication are not fully delivering the levels of satisfaction and community safety expected by the public.

Whereas previously it was almost automatic to warn **all** alleged offenders for Parish Hall Enquiry (except for the most serious offences), it is now increasingly common practice for Centeniers to deal with offenders at States Police headquarters. This practice has the effect of bypassing Victim Offender Mediation opportunities and other possibilities for informal reparation. In Jersey the Victim Offender Mediation scheme has generally failed to attract offenders after a court appearance with the majority of conferences taking place at Parish Hall level on a voluntary basis.

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England and Wales and other jurisdictions are seeking to raise the level of community participation in the central functions of the criminal justice system. In the United Kingdom much has been made of the Anti-Social Behaviour Order (the ASBO), Referral Orders and Acceptable Behaviour Contracts. It has been suggested that legislation should be introduced to implement them in Jersey. The following quotation describes the use of Referral Orders and the Youth Offender Panel in the United Kingdom. Although these operate within a penal context as a sentence of the court, the parallels with the Parish Hall Enquiry are clear:

Referral orders may be made for a minimum of three and a maximum of twelve months... During this period, the case is referred to a 'youth offender panel' managed by the local youth offending teams. Panels seek to agree a 'contract' with the young offender, involving activities for the duration of the order... Importantly, panels consist of at least two community volunteers, one of whom will lead the panel meeting, together with a YOT member. The intention is that the panel meetings will be held in locations as close as possible to where the young person lives and from which the community panel members will be drawn. Panels are designed to provide a less formal context than court for the offender, the victim, their supporters and members of the community to discuss the crime and its consequences (Crawford, 2002).

Other researchers have noted:

Youth offender panels are potentially one of the most radical aspects of the entire youth justice reform agenda (Dignan and Marsh, 2001).

Fortunately for Jersey, the Parish Hall Enquiry is far from 'radical' and the community involvement at local level afforded by the honorary system has been on our agenda for the last 800 years. The Parish Hall Enquiry system demonstrates that the restorative outcomes expected by the introduction of a raft of measures in England and Wales as a result of the enactment of the Crime and Disorder Act and the Youth Justice and Criminal Evidence Act can be achieved by the community without recourse to complex, expensive, professional organisational frameworks. Our research suggests that the introduction of new formal systems of legislation and orders is unnecessary and possibly counter-productive when the informal systems and voluntary contracts can be shown already to be effective and efficient.

Rutherford and Jameson stated: "Beyond doubt, the status quo is not sustainable" (2002:97). We are not sure that this is the case. The Jersey model represents a mixed economy of policing in which Parish and State co-exist combining the features of policing expected in a modern state with a traditional system of volunteers who possess greater powers than their paid, professional, counterparts. Until recently, traditional arrangements in Jersey have enjoyed some protection because it is difficult to change policies and practices in a system in which power is widely dispersed and consensus for change difficult to achieve. However, both the honorary system and the Parish Hall Enquiry are now in a transitional phase. There appears to be a danger that they could be modernised out of existence. Both are under threat unless people are prepared to keep the system going and, more importantly, make decisions that will protect it. In particular we should avoid assuming that because an institution is ancient, it must therefore be archaic and unsuited to modern needs:

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tradition and adaptability can be a very effective combination.

It is important that attempts to modernise and formalise the system do not undermine the traditional arrangements which are already more effective and efficient than some formal criminal justice processes. Our research on the effectiveness of the Parish Hall Enquiry and the honorary system suggests that it could be more realistic to expand their role. Jersey has a low cost system into which more could be diverted. For example, it is possible that raising the threshold of speeding offences which can be dealt with by Centeniers could reduce costly court time. Given the success of the Victim Offender Mediation initiative, there is also potential to consider how Enquiries might usefully deal with more serious offences, particularly those involving public order.

Finally, this report is intended to serve as a stimulus for debate. The basis of fact for these discussions has until now been under-documented. The way in which the Parish Hall System incorporates retributive, rehabilitative, restorative and re-integrative justice according to individualised and contextual needs makes it very unusual indeed. Some of the pressures to which it will need to respond are noted, but overall it clearly has the potential to remain a fundamental part of Jersey's system of criminal justice, and perhaps, with appropriate modification, to play a larger role than at present.

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## Part IV

### Appendices

### Appendix A

#### Oaths of Office

#### SERMENT DES CONNETABLES

**Vous** jurez et promettez, par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la Charge et Office de Connétable en la Paroisse de ..... vous garderez et ferez garder la paix de Sa Majesté, vous opposant, et saisissant de fait tous Mutins, Séditieux, Larrons, Homicides, et toutes autres personnes qui interrompent le cours de la paix publique, lesquels vous présenterez en Justice pour être punis selon leurs méfaits ; ensemble tous hauteurs de Tavernes, Yvrognes, Paillards, Putains, Blasphémateurs, et tous autres qui contreviennent aux Ordonnances, et Commandemens du Magistrat, lesquelles Ordonnances vous garderez et observerez, ferez garder et observer, autant qu'il vous sera possible ; vous ne souffrirez en votre Paroisse, qu'aucune personne tienne de Taverne, autre que ceux établis et licenciés de tems en tems ; et aurez soin spécial par vous, et par vos Officiers, que le jour du Dimanche ne soit profané, par hantise, ou fréquentation auxdites Tavernes, ou autres lieux, contraire aux Ordonnances sur ce faites, lesquelles vous mettrez en due exécution ; vous chercherez, et ferez chercher toutes fois et quantes qu'il sera nécessaire, ou que vous en serez requis ; notamment vous ferez chercher générale, une fois en trois mois, en tous lieux et maisons de ladite Paroisse qui vous seront suspectes ; 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 bon conseil des Principaux, et autres les Officiers de ladite Paroisse ; lesquels Officiers vous assemblerez, ou ferez assembler par le moyen de vos Centeniers une fois le mois pour aviser aux choses dont il seroit besoin concernant ladite Paroisse, et enfin qu'ils aient à déclarer tous malfaiteurs, refractaires, ou désobéissans aux Ordonnances de Justice pour que vous en informiez la Cour, et les Officiers du Roi de tems en tems ; vous exécuterez les Mandemens de Monsieur le Gouverneur, ou de Monsieur le Lieutenant Gouverneur, de Monsieur le Bailly, ou de Monsieur son Lieutenant, et de Messieurs de Justice, en ce qui sera de leur Charge respectivement, assistant aux Etats du Pays lorsque vous en serez requis ; et de tout ce, promettez faire votre loyal devoir, sur votre conscience.

#### 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

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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 réquera 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.

#### SERMENT DES VINTENIERS

**VOUS** jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge de Vinténier de la Vintaine de..... en la Paroisse de.....; que vous ferez tous bons et loyaux Ajournemens et Records, et assisterez le Connétable, ou Centeniers, lorsque vous en serez requis ; et ferez tous autres devoirs qui dépendent de ladite charge.

#### SERMENT DES OFFICIERS DU CONNETABLE

**VOUS** jurez et promettez par la foi et serment que vous devez à Dieu, que bien et fidèlement vous exercerez la charge d'Officier du Connétable de la Paroisse de.....; que vous assisterez ledit Connétable, ou Centeniers, toutes fois et quantes que vous en serez requis ; et ferez tous autres devoirs qui dépendent de ladite charge.

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## Appendix B

### Prescribed offences

#### COMMON LAW OFFENCES.

1. Abduction.
2. Abortion.
3. Affray
4. Arson.
5. Assaults of every description, except minor assaults.
6. Bigamy.
7. Blackmail and cognate offences.
8. Breaking and entering with intent; illegal entry with intent.
9. Breaking prison.
10. Concealment of birth.
11. Conspiracy.
12. Frauds of all kinds; e.g. embezzlement, false pretences, forgery, falsification of accounts, etc.
13. Homicide of every description.
14. Inciting to commit crime.
15. Kidnapping.
16. Larceny of every description, except of a trivial nature.
17. Libel.
18. Malicious damage, except damage of a trivial nature.
19. Obscene publications.
20. Offences within the exclusive jurisdiction of Her Majesty.
21. Perjury and cognate offences.
22. Perversion of the course of justice.
23. Receiving, hiding or withholding stolen property.
24. Robbery.
25. Sexual offences of all kinds.

#### PART II STATUTORY OFFENCES.

##### *Offences against the following enactments: -*

1. Borrowing (Control) (Jersey) Law, 1947.
2. Children (Jersey) Law, 1969 – Part XII.
3. Civil Aviation Act, 1949 (Channel Islands) Order, 1953.
4. Civil Aviation Act, 1971 (Channel Islands) Order, 1972.
5. Copyright – “Loi (1913) au sujet des Droits d’Auteur”, and “Loi (1908) au sujet des Droits de Compositeurs”.
6. Cremation (Jersey) Law, 1953.
7. Currency Offences (Jersey) Law, 1952.
8. Dangerous Drugs (Jersey) Law, 1954.
9. Decimal Currency (Jersey) Law, 1971.
10. Depositors and Investors (Prevention of Fraud) (Jersey) Law, 1967.
11. Diseases of Animals (Jersey) Law, 1956, Article 36(2).
12. Distilleries, Loi de 1860 sur les
13. Droit Criminel, Loi (1895) modifiant le
14. Drugs (Prevention of Misuse) (Jersey) Law, 1964.



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15. Exchange Control Act, 1947 (Channel Islands) Order, 1947.
  16. Explosives – “Loi (1884) sur les Matières Explosives”.
  17. Explosives (Jersey) Law, 1970.
  18. Firearms (Jersey) Law, 1956.
  19. Fire Service (Jersey) Law, 1959, Article 17.
  20. Gambling (Jersey) Law, 1964.
  21. Geneva Conventions Act, 1957.
  22. Genocide (Jersey) Law, 1969.
  23. Hawkers and Non-Resident Traders (Jersey) Law, 1965, Part III.
  24. Hijacking Act 1971 (Jersey) Order, 1971.
  25. Immigration (Jersey) Order, 1972 (1971 Act)
  26. Impôts, Loi (1845) sur la régie des, Article 18.
  27. Licensing (Jersey) Law, 1974, Article 84.
  28. Liquid Fuel, Control of, (Jersey) Regulations, 1974.
  29. Marine etc. Broadcasting (Offences) (Jersey) Order, 1967.
  30. Mental Health (Jersey) Law, 1969, Articles 43, 44 and 45.
  31. Merchandise Marks (Jersey) Law, 1958.
  32. Merchant Shipping Acts.
  33. Milk (Sale to Special Classes) (Jersey) Regulations, 1974.
  34. Motor Traffic (Jersey) Law, 1935, Article 50.
  35. Motor Traffic (Third Party Insurance) (Jersey) Law, 1948, Article 17.
  36. Motor Vehicle Duty (Jersey) Law, 1957, Article 15.
  37. Official Secrets (Jersey) Law, 1952.
  38. Patents (Jersey) Law, 1957.
  39. Places of Refreshment (Jersey) Law, 1967, Article 16.
  40. Post Office (Jersey) Law, 1969.
  41. Printed Papers (Jersey) Law, 1954.
  42. Prison (Jersey) Law, 1957, Articles 22 and 27.
  43. Rassemblements Tumultueux, 1797.
  44. Registered Designs (Jersey) Law, 1957.
  45. Restriction of Offensive Weapons (Jersey) Law, 1960.
  46. Road Traffic (Jersey) Law, 1956, Articles 11(1), 16, 28 and 29(2).
  47. Telecommunications (Jersey) Law, 1972.
  48. Tokyo Convention Act, 1967 (Jersey) Order, 1969.
  49. Trade Marks (Jersey) Law, 1958.

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## Appendix C

### **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.

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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.

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- 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

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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 10<sup>th</sup> January, 2000.

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## Appendix D

### CODE ON THE DECISION TO PROSECUTE

#### 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

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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

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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.

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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.



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- 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

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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.

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

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H.M. Attorney General

10<sup>th</sup> January, 2000.

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## **APPENDIX E**

### **DRAFT MEMORANDUM OF UNDERSTANDING**

### **CALLS TO THE STATES POLICE FROM THE PUBLIC**

#### **THE ROLE OF THE HONORARY POLICE**

##### **BACKGROUND**

- 1.1 Members of the public who require a police service are at liberty to ring either their Parish Hall, their Parish Duty Centenier or the States Police Control Room. When the former occurs attendance is at the discretion of the relevant Parish and there are existing guidelines which set out those issues which must be referred to the States Police irrespective of who first became aware of the incident. The guidelines in this document relate only to those cases in which a caller chooses to report a matter direct to the States Police. It is not possible for this memorandum to cover all eventualities. Personnel, both States and Honorary, will continue to use common sense and discretion in appropriate cases.
- 1.2 The guidance in this document is intended to ensure that the liabilities of the States Police, the Home Affairs Committee and the Honorary Police are adequately defined.

##### **CONTROL ROOM PROCEDURE**

- 2.1 When calls are received at the Police Control Room staff will assess whether, in the context of the incident, the time of day, and the availability of the Honorary Police, a response from Honorary Police would be appropriate.
- 2.2 Whilst it is not possible to offer a definitive list, the States Police should provide first response in the following cases:
  - Where there is an immediate threat to public safety.
  - Where injuries are involved.
  - When an urgent response is required.
  - Where specialist investigation skills are likely to be required.
  - Where there are unusual political or media sensitivities.
- 2.3 Notwithstanding that a States Police Unit has been deployed to an incident the control room should in addition consider the deployment of an Honorary Police Unit to provide backup or support.
- 2.4 If Honorary Officers are available in the appropriate Parish the Control Room should normally utilize them by way of first response in respect of appropriate incidents which could include the following:

- 
- Non-injury road traffic accidents
  - Noisy parties
  - Neighbour disputes
  - Minor public disorder
  - Loose or escaped animals
  - Minor Larceny

2.5 Control Room staff will make a decision about the appropriate levels of response and ensure that the caller is aware of the nature of the response. In the case of Honorary Police response the Control Room will then contact the relevant Duty Centenier or senior officer in a mobile unit and provide the necessary details.

### 3. **COMMITMENT OF THE HONORARY POLICE**

3.1 The Honorary Police undertake to advise the Control Room of their general availability. In particular they will inform the Control Room when they have a mobile unit immediately available in a particular parish and similarly advise Control Room when that mobile goes off duty.

3.2 On receipt of a request for assistance from the Control Room, the Duty Centenier or senior officer in a mobile unit will give an assessment of the capability of the honorary police to attend the particular call. If it is agreed that honorary officers can attend they will:

- Accept responsibility for the incident
- Attend the incident as soon as practicable.
- Report arrival at the scene to the States Police Control Room.
- Form an initial assessment. If the incident is more serious than first thought the Control Room will be informed.
- Act in accordance with the law and the relevant code of practice.
- Do their best to provide a high standard of service.
- Report the outcome to the Control Room who will arrange for any follow up as necessary.
- Submit all relevant reports in a reasonable time.

### 4. **ACCOUNTABILITIES**

4.1 All honorary officers are accountable for their performance and conduct to the Connetable of the parish in which they are operating. States Police officers are accountable to the Chief Officer within the terms of the relevant law.

4.2 The officer in charge of the Control Room is responsible for maintaining a full audit trail of reported incidents from the receipt of the initial information to the point at which a result is recorded.

### 5 **REVIEW**

5.1 This M.O.U. will be reviewed by the Home Affairs Committee and the Comite des Connetables after three and six months from the date of its adoption and thereafter annually.

18th March 2004

**Appendix F**  
**Parish Hall Enquiry Observation Schedule**

Ref :		
Date of PHE:		
Parish:	Centenier:	
Date of Offence :	Date of Enquiry:	
Officer:		
Participants :	CO/ Vingt. Parents: Mum / Dad Step-parents Extended family Friends Victim States Police	Child Care Officer Teacher Youth Worker Other professional Other
Time commenced:	Time ended:	Total Minutes:
Is AG's guidance on the decision to prosecute available in the waiting room ?	Yes/No	
Is the Parish Hall Enquiry leaflet available in the waiting room ?	Yes/No	

<p><u>PROCEDURAL INTEGRITY</u></p> <p>Did the Centenier</p> <p>Explain duties and practice of Centenier</p> <p>Read Police Report</p> <p>Ask for Comments</p> <p>Explain that decision can be rejected and case heard by Magistrates Court</p> <p>If charged:</p> <p>Caution</p> <p>Explain Notice of Charge</p> <p>Offer information about Legal Aid</p>	<p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p> <p>Yes/No</p>	
<p><u>EMOTIONAL INTENSITY</u></p> <p>Emotional Power of act description</p> <p>Emotional Responsiveness of offender</p> <p>Emotional Engagement of offender</p> <p>Degree of offender discomfort</p> <p>Frequency of shouting at offender</p> <p>Violence or threats</p> <p>Offender cried</p>	<p>How emotionally intense was the description of the consequences of the offence by the Centenier.</p> <p>Low intensity            1 2 3 4 5            High intensity</p> <p>Unresponsive            1 2 3 4 5            Very responsive</p> <p>Switched off            1 2 3 4 5            Aware</p> <p>Very Little            1 2 3 4 5            'Squirming'</p> <p>None            1 2 3 4 5            Throughout PHE</p> <p>None            1 2 3 4 5            Throughout PHE</p> <p><u>Yes/No</u></p>	



<p><b><u>PROCEDURAL JUSTICE</u></b></p> <p>Percentage of time offender speaking Offender able to comment/correct police report Offender contribution to disposal Extent to which offender is coerced into accepting Centenier's decision</p>	<table> <tr> <td>minutes</td> <td></td> <td></td> </tr> <tr> <td>Not permitted</td> <td>1 2 3 4 5</td> <td>% of total PHE Permitted</td> </tr> <tr> <td>No contribution</td> <td>1 2 3 4 5</td> <td>High level</td> </tr> <tr> <td>No Coercion</td> <td>1 2 3 4 5</td> <td>Much Coercion</td> </tr> </table>	minutes			Not permitted	1 2 3 4 5	% of total PHE Permitted	No contribution	1 2 3 4 5	High level	No Coercion	1 2 3 4 5	Much Coercion									
minutes																						
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No contribution	1 2 3 4 5	High level																				
No Coercion	1 2 3 4 5	Much Coercion																				
<p><b><u>RESTORATIVE JUSTICE</u></b></p> <p>To what extent did Centenier discuss:</p> <p>Consequences of offence Making reparation to victim Making reparation to community/ parish in which offence occurred Overall, how much discussion about reparation occurred</p>	<table> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> </table>	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large									
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Not at all	1 2 3 4 5	Large																				
Not at all	1 2 3 4 5	Large																				
<p><b><u>RETRIBUTIVE JUSTICE</u></b></p> <p>To what extent did Centenier discuss:</p> <p>Punishment Repayment to the community Repayment to the victim Prevention of further offences Restoration of offenders humour or esteem</p> <p>Centenier uses which philosophy ( retribution or restoration ) to determine sanction.</p>	<table> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Not at all</td> <td>1 2 3 4 5</td> <td>Large</td> </tr> <tr> <td>Retribution</td> <td>Restoration</td> <td>Elements of both</td> </tr> </table>	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Not at all	1 2 3 4 5	Large	Retribution	Restoration	Elements of both			
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Not at all	1 2 3 4 5	Large																				
Not at all	1 2 3 4 5	Large																				
Retribution	Restoration	Elements of both																				
<p><b><u>REINTEGRATIVE SHAMING</u></b></p> <p>Disapproval towards type of offence Disapproval towards offenders actions Level of support towards offender Level of respect towards offender Level at which the offender treated by supporters as loved Level of approval expressed towards offender as a person Level at which it was communicated to offender that they could put actions behind them</p>	<table> <tr> <td>Very Little</td> <td>1 2 3 4 5</td> <td>Highly disapproving</td> </tr> <tr> <td>Very Little</td> <td>1 2 3 4 5</td> <td>Highly disapproving</td> </tr> <tr> <td>Unsupportive</td> <td>1 2 3 4 5</td> <td>Supportive</td> </tr> <tr> <td>Disrespectful</td> <td>1 2 3 4 5</td> <td>Very respectful</td> </tr> <tr> <td>Unloved</td> <td>1 2 3 4 5</td> <td>Loved</td> </tr> <tr> <td>Very Little</td> <td>1 2 3 4 5</td> <td>Highly approving</td> </tr> <tr> <td>Negative outlook</td> <td>1 2 3 4 5</td> <td>Positive outlook</td> </tr> </table>	Very Little	1 2 3 4 5	Highly disapproving	Very Little	1 2 3 4 5	Highly disapproving	Unsupportive	1 2 3 4 5	Supportive	Disrespectful	1 2 3 4 5	Very respectful	Unloved	1 2 3 4 5	Loved	Very Little	1 2 3 4 5	Highly approving	Negative outlook	1 2 3 4 5	Positive outlook
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Unloved	1 2 3 4 5	Loved																				
Very Little	1 2 3 4 5	Highly approving																				
Negative outlook	1 2 3 4 5	Positive outlook																				

<p><b><u>STIGMATISING SHAMING</u></b></p> <p>Level of stigmatising shame expressed</p> <p>Level of disapproval in the offender as a person</p> <p>Level of stigmatising names and labels used to describe offender</p> <p>Level of moral lecturing to which offender is subjected</p> <p>Extent to which offender is treated as 'criminal'</p>	<p>Low            1 2 3 4 5            High</p> <p>Low            1 2 3 4 5            High</p> <p>Low            1 2 3 4 5            High</p> <p>Low            1 2 3 4 5            High</p> <p>Very Little    1 2 3 4 5            Great</p>
<p><b><u>DEFIANCE</u></b></p> <p>Level to which offender behaves in a defiant manner</p> <p>Level to which offender holds others responsible for actions</p> <p>Sullen or unresponsive – a 'Kevin'</p>	<p>Very little defiance    1 2 3 4 5            Highly defiant</p> <p>Low level                1 2 3 4 5            High level</p> <p>Unresponsive            1 2 3 4 5            Highly responsive</p>
<p><b><u>APOLOGY</u></b></p> <p>Offender accepts having done wrong</p> <p>Appears remorseful</p> <p>Apologises:</p>	<p>Reluctant acceptance    1 2 3 4 5            Freely accepts</p> <p>Very little remorse        1 2 3 4 5            Highly remorseful</p> <p>Yes/No</p> <p>Verbal</p> <p>Handshake</p> <p>Hug</p> <p>Pat on back</p> <p>Kiss</p> <p>Other</p>
<p><b><u>FORGIVENESS</u></b></p> <p>by Centenier</p> <p>Level expressed towards Offender</p> <p>Degree to which forgiven for actions</p> <p>Expression of forgiveness made by Centenier:</p>	<p>Very little forgiveness    1 2 3 4 5            Highly forgiving</p> <p>Very little forgiveness    1 2 3 4 5            Highly forgiving</p> <p>Verbal</p> <p>Handshake</p> <p>Hug</p> <p>Pat on back</p> <p>Kiss</p> <p>Other</p>

<p><b><u>PRO-SOCIAL MODELLING</u></b> by Centenier</p> <p>Is clear about role at PHE Shows Empathy Constructive Use of Humour Shows Optimism Uses Praise Reinforces pro-social behaviour Discourages and challenges anti-social behaviour/comments Presents as pro-social model</p>	<table> <tr> <td>Unclear</td> <td>1 2 3 4 5</td> <td>Very clear</td> </tr> <tr> <td>Very little</td> <td>1 2 3 4 5</td> <td>High level of empathy</td> </tr> <tr> <td>Very little humour</td> <td>1 2 3 4 5</td> <td>Appropriate use</td> </tr> <tr> <td>Pessimistic</td> <td>1 2 3 4 5</td> <td>Highly optimistic</td> </tr> <tr> <td>Very little</td> <td>1 2 3 4 5</td> <td>High level of praise</td> </tr> <tr> <td>Very little</td> <td>1 2 3 4 5</td> <td>High level</td> </tr> <tr> <td>Very little</td> <td>1 2 3 4 5</td> <td>High level</td> </tr> <tr> <td>Anti-social</td> <td>1 2 3 4 5</td> <td>Pro-social</td> </tr> </table>	Unclear	1 2 3 4 5	Very clear	Very little	1 2 3 4 5	High level of empathy	Very little humour	1 2 3 4 5	Appropriate use	Pessimistic	1 2 3 4 5	Highly optimistic	Very little	1 2 3 4 5	High level of praise	Very little	1 2 3 4 5	High level	Very little	1 2 3 4 5	High level	Anti-social	1 2 3 4 5	Pro-social
Unclear	1 2 3 4 5	Very clear																							
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Anti-social	1 2 3 4 5	Pro-social																							
<p><b><u>SUBSTANCE ABUSE</u></b></p> <p>Is there evidence of alcohol/ drug abuse</p>	<p>Yes/No</p>																								
<p><b><u>ADDITIONAL PROBLEMS</u></b> acknowledged by Centenier</p>	<p>Anti-social friends Attitudes/ Orientation to authority Boredom Domestic Violence Education Employment Family problems Financial Gambling Health Housing Impulsivity Lack of confidence Language Low Self-esteem Other Poor use of leisure time Relationships Temper Control</p>																								
<p>Notes:</p>																									

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## Appendix G

### TIME PERIOD AIMS FOR THE YOUTH COURT APRIL 2004 VERSION

#### (A) Police Investigation - aim completion as soon as possible

- (1) In all cases other than routine motoring cases the investigation should be fast tracked.
- (2) In complex investigations a Centenier should be informed at an early date of the existence of the investigation so that a Centenier can make a decision as to whether the youth should be presented at an early date before the Youth Court on some of the charges.

#### (B) Identification of cases which should go directly to the Youth Court - aim as soon as possible

- (1) The States Police should identify as soon as possible those cases in relation to which an early decision should be made by a Centenier as to whether the case should go directly to the Youth Court without going through a Parish Hall enquiry.
- (2) Those cases which should go directly to the Youth Court shall be presented before that Court at the earliest possible date.

#### (C) Parish Hall enquiry - aim within 3 weeks from the decision to go to a Parish Hall enquiry

- (1) Subject to (2), the date for a Parish Hall enquiry shall not be more than 3 weeks from the decision to go to a Parish Hall enquiry.
- (2) The Probation Department need two weeks' notice of a Parish Hall enquiry in any parish other than St. Helier. In relation to St. Helier the notice needed is one week

#### (D) From Parish Hall enquiry to Youth Court - aim next sitting of the Youth Court

A case which goes from a Parish Hall enquiry to the Youth Court shall be first

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presented at the Youth Court on the next regular sitting on a Tuesday morning unless the Greffe has given notice that the first presentation should be on some other occasion.

**(E) To Royal Court paper committal - aim 6 weeks**

- (1) First Presentation Adjourn 2 weeks for jurisdiction.
- (2) Second Presentation Hear prosecution version of facts and provisionally decide to send up. Adjourn 4 weeks for paper committal.
- (3) Third Presentation After 6 weeks send up.

**(F) To Royal Court after old style committal - aim 16 weeks**

- (1) First Presentation Adjourn 2 weeks for jurisdiction.
- (2) Second Presentation Hear prosecution version of facts and provisionally decide to send up. Adjourn 4 weeks with a view to paper committal.
- (3) Third Presentation Old style committal requested. Fix date for pre trial review within 2 weeks in preparation for old style committal.
- (4) Fourth Presentation Conduct pre trial review and fix date for old style committal within 4 weeks.
- (5) Fifth Presentation Hear old style committal and find prima facie case if appropriate and adjourn for transcripts for 4 weeks.
- (6) Sixth Presentation Commit after 16 weeks.

**(G) To trial in custody - aim 7 weeks**

- (1) First Presentation Adjourn 2 weeks for plea.
- (2) Second Presentation Not guilty or reserved plea fix date for pre trial review within 2 weeks in preparation for trial or grant a further short adjournment for consideration of plea.
- (3) Third Presentation Conduct pre trial review and fix date for trial within 3 weeks.
- (4) Fourth Presentation Trial within a total of 7 weeks unless a further short adjournment has been granted under (2) in which case the trial date is put back accordingly.

N.B. In the event of the trial not commencing upon the first trial date the new trial date shall be fixed for within 2 weeks from the first trial date. However, in the event of the trial commencing but not being completed upon the first trial date the date for the continuation shall be as soon as possible within 1 week from the first trial date.

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**(H) To trial not in custody - aim 8 weeks**

- (1) First Presentation Adjourn 2 weeks for plea.
- (2) Second Presentation Not guilty or reserved plea fix date for pre trial review within 2 weeks or grant a further short adjournment for consideration of plea..
- (3) Third Presentation Conduct pre trial review and fix a date for trial within 4 weeks.
- (4) Fourth Presentation Trial within a total of 8 weeks unless a further short adjournment has been granted under (2) in which case the trial date is put back accordingly..

N.B. In the event of the trial not commencing upon the first trial date the new trial date shall be fixed for within 2 weeks from the first trial date. However, in the event of the trial commencing but not being completed on the first trial date the date for the continuation shall be as soon as possible within 1 week from the first trial date.

**(I) To sentencing after trial in custody - aim 9 weeks**

As (G) except 2 weeks from trial for S.E.R. etc. makes sentencing within 9 weeks.

**(J) To sentencing after trial not in custody - aim 12 weeks**

As (H) except 4 weeks from trial for S.E.R. etc. makes sentencing within 12 weeks.

**(K) To sentencing on guilty pleas in custody - aim 4 weeks**

- (1) First Presentation Adjourn for 2 weeks for plea.
- (2) Second Presentation Guilty adjourn 2 weeks for S.E.R.
- (3) Third Presentation Sentence after 4 weeks.

**(L) To sentencing on guilty plea not in custody - aim 6 weeks**

- (1) First Presentation Adjourn for 2 weeks for plea.
- (2) Second Presentation Guilty adjourn 4 weeks for S.E.R.
- (3) Third Presentation Sentence after 6 weeks.

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**(M) Application for adjournment of trial**

All applications to a Magistrate. If the application is granted then pre trial review is conducted again.

**(N) Summary**

	<u>Aim</u>
(1) Date for Parish Hall enquiry	3 weeks
(2) Parish Hall enquiry to Youth Court	1 week
(3) Royal Court paper committal	6 weeks
(4) Royal Court old style committal	16 weeks
(5) Trial in Custody (Continuation within 1 week or new date within a further 2 weeks)	7 weeks
(6) Trial not in custody (Continuation within 1 week or new date within a further 2 weeks)	8 weeks
(7) Sentencing after trial in custody	9 weeks
(8) Sentencing after trial not in custody	12 weeks
(9) Sentencing guilty plea in custody	4 weeks
(10) Sentencing guilty plea not in custody	6 weeks
(11) All applications for adjourned trial to Magistrate.	
(13) For cases (3) to (10) which go via a Parish Hall enquiry the time period aim is increased by 4 weeks. For cases (3) to (10) which do not go via a Parish Hall enquiry the time period aim is increased by 1 week. This means that all aims are within 17 weeks from the completion of the investigation except Old Style Committal to Royal Court with Parish Hall enquiry - 20 weeks and there should not be any of these.	

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## APPENDIX H



**STATES OF JERSEY POLICE**  
P.O. BOX 789  
JERSEY  
JE2 3ZA

**TEL: 01534 612398 FAX: 01534 612756**

**SUBJECT: Honorary Police Costing on the States of Jersey Police**

**DATE: 12th January 2005**

**O.I.C: Chief Inspector J. Sculthorp**

Sir,

1. This report identifies the approximate cost of services provided to the Honorary Police by the States of Jersey Police.
2. The Criminal Justice Unit is the provider for the vast majority of these services and a table is provided below to identify these areas.

2.1

<u>Task</u>	<u>Comment</u>	<u>Cost</u>
<u>Criminal Justice Unit</u>		
Witness Warning Clerk/ Victim Notification	Magistrates/Royal Court. Notification to victims.	£ 24384
Decision-Maker.	Recommendations on cases. Advice to Centeniers.	£ 49979
Disclosure Clerk.	Criminal prosecution. Cases to defence lawyers.	£ 24384
File Preparers.	Preparation of files for court copies to other agencies on behalf of Centenier. Letters to Centeniers and victims etc.	£ 11940
Tape Librarian.	Showing tapes to	



	Advocates on behalf of Centenier.	£ 4347
Conviction Checks.	Charged/Reported persons.	£ 3710
Vetting.	Checks on Honorary Officers.	£ 6838
Maintaining C.O.P's.	Updating of information on system.	£ 7208
Administration of arrest orders	Process of orders and updating of records.	£ 280
Victim Notification.	Letters sent to victims of crime.	£ 280
Sudden death administration.	Process of reports and updating of records.	£ 883
P.N.C conviction checks.	Early return of driving licence.	£ 738
P.N.C	Provision of breach of order paperwork	£ 3014
P.N.C	Discharge of Community Service Order.	£ 300
P.N.C	Conviction Records. Copies for Centeniers at Court.	£ 3276
Advice	Prosecution/Data Protection advice given to Honorary Police.	£ 2570
Administration of Prosecution Service.	Letters to A.G./ Law Officers,/Centeniers and meetings etc	£ 4413
1. Process clerk.	Letters and case papers to Centeniers. Letters to other agencies and defendant. Updating of records.	£ 22049
<b>2. Total Cost</b>		<b>£ 170.593</b>

3. Other areas in which the SOJP provides a service to the Honorary Police are weekly tasking group meetings, quarterly meetings with Senior Officers, Professional Standard Department investigations, custody of Honorary Police prisoners, communications training, breath test equipment calibration, Force Messenger service and Fleet Manager service. The below table is a breakdown of these services.

### 3.1

<b>Tasking Meetings</b>		
Local Intelligence officer.	14 packages for Honorary Police prepared weekly by the LIO and his attendance at the meeting.	£3730.
Crime Analyst.	Crime Analyst's preparation and attendance at meeting.	£3399.
Chair Person.	CSB Inspector's preparation and attendance at meeting.	£2870.
Special Events.	Events Planning Officer attendance at meeting.	£1065.
Refreshments at Meeting		£ 516.
<b>Senior Officers Meeting</b>		
Quarterly Meeting with Honorary Police	Attended by Superintendent and 3 X C/Inspectors.	£ 1146.

<b>Professional Standard Dept' Investigations</b>		
Investigations.	<i>In 2004, 5 cases were investigated by the department. Includes Inspector &amp; Sergeants Hours.</i>	£ 5136.
<b>Custody</b>		
Prisoners	Process Honorary Police prisoners. Custody Sergeant and gaoler. Average time in cell is 6 hours. In 2004, 53 prisoners were detained.	£ 3968
Supervising Police Constable.	Constable to shadow Honorary Officer.	£ 1857
<b>Communications</b>		
Honorary Police radios	Training of Honorary	

were purchased from money allocated in a Capital vote.	Officers and ancillary matters.	£ 3000.
<b>Breath Test Equipment.</b>		
	Initial purchase of 11 Units ( some Parish's purchased their own radios ).	£ 4950.
	Twice yearly calibration and downloading of units.	£ 526.
<b>Force Messenger Service.</b>		
	Delivery of confidential paperwork to the Parish's. This figure does not take in to account the depreciation of the vehicle and the running costs.	£ 1872
<b>Fleet Manager</b>		
	Ordering of vehicles for several Parish's. Maintenance of lighting/ siren system.	£ 500
<b>Total</b>		£ 34.535
<b>Grand Total</b>		<b>£ 205.128</b>

4. Further research has been undertaken in to the cost of services provided to the Honorary Police by the SOJP. The above figures are a more accurate representation of that cost.
5. In addition to the above tables the I.T department is developing software that will enable the parishes to receive live iLog incidents and open entries. The Force Control Room on a daily basis contacts Centeniers to inform them of incidents in their Parish and updates them as to the result of the incident. As and when the Honorary Police are on patrol then the FCR also acts as their control room. At this present time it is not possible to quantify the cost of these services.

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6. Other than parking tickets, fixed penalty notices do not exist in Jersey.  
Thus the administration of the Parish system costs the States of Jersey Police  
£142.163

J.Sculthorp  
Chief Inspector  
Operational Support

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