

COPY

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The Hon. Paul East  
Attorney General  
Parliament Buildings  
WELLINGTON

Dear Sir

Re: Christchurch Civic Creche

1. Thank you for your letter of 7 June. I appreciate that a decision having been taken by Cabinet, this response will not alter matters. Nevertheless I wish to record that I do not accept the reasons given for not holding an inquiry. It may become material in the future to have recorded my disagreement, and accordingly I proceed to do so.
2. I also received a letter from the Deputy Commissioner of Police advising that no action would be taken by the Police Department. In that letter the Police adopted the Cabinet's position as its own. I shall therefore send a copy of this letter to the Commissioner of Police.
3. It is not correct to say that "the factual background to events was the subject of extensive scrutiny by Chief Judge Goddard in the Employment Court". That was a wrongful dismissal case. Only the Christchurch City Council was a party to the proceedings. No-one from the Department of Social Welfare, the Ministry of Education, or the Police appeared as a witness or in any other capacity at the hearing. Nor did any of those agencies trouble to have an observer at the proceedings, so far as I am aware. It is trite that in these circumstances the Chief Judge could not make findings adverse to unrepresented parties. In any event, the focus of the proceedings was necessarily the actions of the Christchurch City Council in its capacity as an employer. Frankly, one of the worst features of the case was that the City Council was left to defend its actions, when in large measure its hand was forced by the joint actions of the Police and the Ministry of Education in engineering cancellation of the Creche licence. To suggest that in some way the Employment Court proceedings obviate the need to look at the actions of the agencies which caused the Council to act as it did, is not accepted.
4. Likewise I do not agree that the issues raised in my letter of 15 March to the Minister of Police "have already been the subject of extensive scrutiny by the Courts" (the High Court and Court of Appeal) and in relation to the

application for legal aid to appeal to the Privy Council. There was no element of examination of Police conduct involved in the application for legal aid. The hearings before the High Court and the Court of Appeal very largely concerned the case of Peter Ellis. My letter was not written with regard to his case, but rather had as its focus the events of September/October 1992 when the Creche closure was effected some ten months after Peter Ellis left that setting.

5. I accept that upon the hearing of the application for costs made by the discharged women accused, Williamson J. made findings relevant to whether the Police had acted in good faith and had carried out a proper investigation in relation to the prosecution of the four. That was a narrow inquiry, in the context of quite specific statutory criteria, and with respect bore little relationship to the lines of inquiry suggested in my original letter.
6. My concerns included the effects upon the lives of Creche staff who were not the subject of criminal charges, the effects upon children of the Creche at the time of its closure and the effects upon parents of those children. Particularly the child care professionals, whom I described in my letter as "ordinary decent New Zealanders", who both lost their careers and had their lives devastated by the Creche closure, appear to be forgotten in all of this. There has been no consideration by any Court of the appropriateness of Police action as it affected these people. Your letter referred to the "regretful fact of life" that innocent people can "suffer through the association with an offender". Again, with respect, that contention is not accepted. As I have already said it was the actions of the Police months after Peter Ellis left the Creche which gave rise to the request for an inquiry.
7. I am saddened not only by the Cabinet decision but also by the decisions of each of the State agencies, particularly the Police, not to look into the concerns raised in any shape or form. I had hoped that in New Zealand, particularly in the light of overseas experience which has shown that serious mistakes are made by agencies in the area of investigation of child sex abuse, a willingness to be involved in at least self examination might exist. I believe a siege mentality has developed with regard to this matter. Endeavour was made to raise the concerns identified in my letter in a way which was restrained, constructive and responsible. I fear that the damage which has been done to so many innocent people, will mean the Civic Creche case will not go away. The blanket decision of the State agencies to resist any review of their actions will simply aggravate a situation which is already of widespread concern to many responsible people.

Yours faithfully

G. K. Panckhurst