

MINISTRY OF
JUSTICE

IN 01 03 01 02

8 March 2000

Rt Honourable Sir Thomas Eichelbaum

Dear Sir Thomas

We enclose draft terms of reference for the Ellis inquiry. We would be grateful for your comments as soon as possible.

The schedule to the draft terms of reference is not yet complete. (We will need to go carefully through extensive material submitted with Mr Ellis's petition to finalise it.)

The Minister intends to proceed with an inquiry and hopes to announce it on Friday before he goes overseas.

You will note the draft refers to seeking submissions from the families of children who gave evidence at the trial. We intend that legal representation be arranged for these families.

We look forward to hearing from you.

Yours sincerely

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Te Manatū Ture

The Minister of Justice appoints you to inquire in the manner set out below into matters which may be relevant to the assessment of the reliability of evidence given by the children who attended the Christchurch civic crèche against Peter Hugh McGregor Ellis and to report on whether there are any such matters which give rise to doubts about the assessment of the children's evidence to an extent which would render the convictions of Peter Hugh McGregor Ellis unsafe and warrant the grant of a pardon.

You are to:

- (1) (a) Review the reports and memoranda listed in the schedule and;
 - (i) identify the processes, practices and procedures currently accepted internationally as best practice for investigating mass allegation child sexual abuses and interviewing children in these cases; and
 - (ii) identify any risks associated with a failure to adhere to best practice.
- (b) On the basis of the evidence given at both the depositions and the trial, assess whether the investigation into the events at the Christchurch civic crèche case and interviews of children were conducted in accordance with best practice as now understood.
- (c) If you conclude that the interviews were not conducted in accordance with best practice, identify the nature and extent of any risks which arise, which might affect the assessment of the reliability of the children's evidence. In conducting this task you are not required to attribute or apportion blame to particular individuals who undertook the interviews. The focus of the task is on the evaluation of systems and techniques and their impact on the children.

In undertaking the tasks referred to in (1) above, you are to invite, and consider, written submissions from the Crown Law Office (on behalf of the Police, Department of Social Welfare and Specialist Interviewers), Mr Peter Ellis, the families of children who gave evidence at the Ellis trial, and the Commissioner for Children.

- (2) For the purpose of the assessment and the conclusions under (1) above, you are to:
 - (a) Seek and evaluate opinions from at least two internationally recognised experts (if possible with experience in mass allegation child sexual abuse) on whether there are features of the investigation and/or interviews of the children (on the basis of the evidence at depositions and trial) which may have affected the reliability of the children's evidence, and if so, their likely impact.
 - (b) In selecting the experts from whom opinions are to be sought you are to:
 - (i) invite and consider submissions from the Crown Law Office, Mr Peter Ellis, the families of children who gave evidence at Mr Ellis's trial and the Commissioner for Children; and
 - (ii) make such further inquiries as you consider necessary to ensure that the experts from whom opinions are sought reasonably reflect the range of professional views.
- (3) In light of your assessment and conclusions in (1) and (2) above, you are to report by 31 August 2000 on whether there are any matters which give rise to doubts about the assessment of the children's evidence to an extent which would render the convictions of Peter Hugh McGregor Ellis unsafe and warrant the grant of a pardon.

SCHEDULE

Report of the Inquiry into Child Abuse in Cleveland 1987;

Report of the Inquiry into the Removal of Children from Orkney Isles in February 1991;

The 1992 Memorandum of Good Practice (England);

The Joint New Zealand Children and Young Persons Service and Police Operating Guidelines of March 1997;

The Final Report of the Royal Commission into the New South Wales Police Service of May 1997;

Law Commission. Total Recall? The Reliability of Witness Testimony. A Consultation Paper (July 1999); and

Analysis of Child Molestation Issues Report No.7, A Report by the 1993/4 San Diego County Grand Jury, June 1, 1994.

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