

**MINISTERIAL INQUIRY INTO THE PETER ELLIS CASE**

**Rt Hon Sir Thomas Eichelbaum**

**SUBMISSIONS ON BEHALF OF**

**MR PETER HUGH MCGREGOR ELLIS**

**IN RELATION TO PARAGRAPH (1) OF THE TERMS OF  
REFERENCE**

**24 July 2000**

---

**SUBMISSIONS IN RELATION TO TASK TWO  
PART TWO**

---

Mrs Judith Ablett Kerr, Queen's Counsel

Dunbar House Chambers

21 Dunbar Street

P.O. Box 46

Dunedin

Phone: (03) 477 3390

Facsimile: (03) 477 3391

# THE EVIDENCE OF INTERVIEWING AND CONTAMINATION

## A. INTRODUCTION

1.                                was born 11 August 1986.
2.                                attended the Christchurch Civic Crèche from 1 April 1988 to 19 July 1991. Her friends at the Creche were
3.    Parents:                                and                                (Librarian and Teacher).
4.    At trial four counts related to                                Ellis being found guilty on all four:
  - Count 20: Sexual violation at Christchurch by having unlawful sexual connection with her occasioned by the connection of her mouth with his penis;
  - Count 21: Indecent assault in that he touched the complainant's vaginal area with his penis at the Creche;
  - Count 22: Indecent assault in that he touched the complainant's anal area with his penis at the Creche;
  - Count 23: Indecent assault in that he took the child to an unknown address where an unknown man put his penis on her vagina.
5.    These offences were alleged to have occurred between 1 May 1989 and 30 July 1991.
6.    is referred to as Child H in the Court of Appeal Judgment and sometimes referred to as Child 10 in the depositions.
7.    The video-recorded interviews:

DATE	INTERVIEWER	MONITOR	JURY SHOWN?
27 February 1992	Susan Sidey	Colin Eade	Yes
28 February 1992	Susan Sidey	Colin Eade	Yes

<sup>1</sup> Source: Notes of Evidence at Depositions, at page 500

18 March 1992	Susan Sidey	Colin Eade	Yes
27 March 1992	Susan Sidey	Colin Eade	Yes
28 October 1992	Susan Sidey	Cathy Crawford	No
29 October 1992	Susan Sidey	Colin Eade	No

8. was aged 5 years 6 months at the time of the first and second interviews, 5 years 7 months at the time of the third and fourth interviews, and 6 years and 1 month at the time of the fifth and sixth interviews.

## **B. PARENTAL CONTAMINATION**

9. : in November 1991 was one of the first parents to become aware of the allegations against Peter Ellis made by concerning her son and had been friends for about 10 years and were in contact during the period of the inquiry.<sup>2</sup> Although was no longer at the Creche, attended the November 1991 meeting "primarily to support remained in contact with and during this pre-disclosure period<sup>4</sup>:

*and I are friends yes so its quite normal to carry on contact. You were also at that time having discns with about sexual abuse indicators in*

25 children? contacted me because of my being on the committee and I think I contacted out and she was able to help me with some indicators of sexual abuse.

10. Whilst claims that she did not attend a support meeting held shortly after the December 1991 parent's meeting, she knew that parents were meeting who had concerns, including <sup>5</sup>.

11. At trial accepted that prior to first disclosure she had questioned her two or three times over a period of three months.<sup>6</sup>

12. outlined this initial questioning of in a statement she made to the Police on 21 April 1992<sup>7</sup> and in her earlier Police statement of 19 February 1992.<sup>8</sup>

<sup>2</sup> Source: Notes of Evidence at Depositions, page 507

<sup>3</sup> Source: Notes of Evidence at Trial, page 194

<sup>4</sup> Source: Notes of Evidence at Trial, page 194

<sup>5</sup> Source: Notes of Evidence at Depositions, pages 539 to 540

<sup>6</sup> Source: Notes of Evidence at Trial, page 196

<sup>7</sup> Source: In original statement to the Police dated 21 April 1992, pages 1 to 3 she stated: "I went along to [the first meeting in November 1991] knowing what had told his mother about Peter ELLIS...If I hadn't have known what had

13. At Depositions [redacted] stated that it was another parent who told her that "Peter used to rub their bottoms too hard"<sup>9</sup>. When asked whether she thought that she had been ignoring the advice that she had been given not to ask about Mr Ellis, replied<sup>10</sup>:

*"at that point i was becoming more concerned, still not greatly concerned but concerned enough to ask a question so yes i did ignore it."*

### THE "EXPERIMENT"

14. By February 1992 [redacted] was becoming more consumed about the possibility that her daughter may have been abused by Peter Ellis. At trial [redacted] indicated that it was in February that her concerns were increased by observing the behaviour of [redacted] with her 7 month old son.<sup>11</sup> [redacted] was also a complainant at trial and was one of [redacted] friends whom she saw outside of Creche and had been at the [redacted]'s house on average once a week up to the depositions hearing. Following consultation with [redacted] and [redacted] [redacted] conducted an experiment on [redacted] in the presence of her own daughter,<sup>12</sup>

*"What was [redacted] behaviour that caused you concern? When my son had his nappies off one day she came up and was fondling his penis. Did you then go and discuss that with [redacted]"*

---

happened to [redacted] or what [redacted] had said I would have come away really frustrated. I think that after school the next day I first started talking to [redacted] I didn't make notes of my conversation with [redacted] that first day. I can remember the conversation. I just said to her, "Do you remember much about the creche?" She said, "Yes". I said, "Who did you used to like at the creche?" She listed two friends. Then I said, "Who did you used to like who used to look after you?" She listed basically everybody. She listed Marie, Debbie, Gaye and Peter. Then I asked her if there was anyone she didn't like who used to look after her. She said, "No one." Then I asked her if she liked Peter. She said, "No not really". Then I left it... I asked her if when she was on her own with him if he ever tried to touch her. She said he touched her face when she was on the bars. I didn't ask her anything more. This was some time after the meeting, December or January. Then I can't remember who told but someone said that Peter used to rub their bottom too hard. I asked her, "Did Peter ever take you to the toilet?" and she said, "No". I knew she was lying. I had been there at the creche at least once and Peter had come out from the toilet with [redacted] so I knew what she had said wasn't true. It worried me that she was not telling me the truth and I wanted to know why."

<sup>8</sup> Source: In [redacted]'s original statement to the Police dated 19 February 1992 she stated: "I asked her if Peter had touched her in the toilet. She said no but he used to wipe my bottom too hard. She said also that he used to shut the door, the main door. She is very non-committal about him. She didn't say whether she liked him or didn't like him."

<sup>9</sup> Source: Notes of Evidence at Depositions, page 515

<sup>10</sup> Source: Notes of Evidence at Depositions, page 515

<sup>11</sup> Source: Notes of Evidence at Trial, page 196 to 197

<sup>12</sup> Source: Notes of Evidence at Trial, page 196 to 197

? It actually came up quite casually in conversn. At the time when it happened with I was concerned but I didn't put it down specifically to an indicator of sexual abuse and both had more

experience in that area than I have and they suggested to me it may have been an indicator, that is sometimes what children will do when they have been sexually abused. Did you then on a second occasion after discussing it with

5 place your child before on a second occasn to see what she would do? During that time I contacted Det. Eade and Sue Sidey and talked to them about what I observed and Colin made a time to come round and talk to me and get a statement about that. I was aware I was going to be making a statement of a very serious

10 nature so for that reason it did happen a second time. And I was able to observe her quite specifically this time. How long did you allow for that behaviour with to continue with your son? The second time, about 30 seconds to a minute, its hard to know, it wasn't very long." (emphasis added).

15. During the first incident had also wanted to kiss on the mouth "quite passionately" and said she did not want to kiss her in that way.<sup>13</sup>

16. observed behaviour and on the second occasion said to her mother, "mummy she is doing it again."<sup>14</sup>

### INITIAL DISCLOSURE

17. stated at trial<sup>15</sup>:

"When she first started talking about Peter Ellis did you keep reassuring her it was a safe house a safe place for her to be? I certainly did. You also questioned her directly about incidents that Peter Ellis may have perpetrated on her? I found after her first reaction to my first direct question that she responded very well to that, it seemed an easy way for Lily to talk and get something off her chest, so I found it was easier to be more direct with her. If I started being vague she became very worried."

18. At trial accepted that around 20 February 1992 she asked her daughter if Appellant had ever touched her in the toilets, if Mr Ellis had touched her vagina, touched her with his penis, if his penis was lying down or sticking out and demonstrated it with her arm.<sup>16</sup>

<sup>13</sup> Source: Notes of Evidence at Depositions, page 505 to 506

<sup>14</sup> Source: Notes of Evidence at Depositions, page 506

<sup>15</sup> Source: Notes of Evidence at Trial, page 197 to 198

<sup>16</sup> Source: Notes of Evidence at Trial, page 198

19. also stated that told her that "stuff came out of Peter's penis."<sup>17</sup> However, this was contradicted by ; at trial.<sup>18</sup>

Q: "Can you remember the first night you talked to your Mum about Peter?"

A: "Yes."

Q: "Just before you started telling your Mum about Peter your Mum asked you a few questions is that right?"

A: "Yes she did."

Q: "She asked you if Peter had ever touched you in the toilets?"

A: "Yes that is true."

Q: "Did she also ask if Peter had ever touched you on the walks?"

A: "What did you say."

Q: "Can you remember your Mum asking you if Peter had shown you his penis in the toilets?"

A: "Yes I can remember that."

Q: "And can you remember your Mum asking you if Peter had ever touched your vagina?"

A: "Yes I can."

Q: "Can you remember your Mum asking you if Peter ever touched you with his penis?"

A: "Yes I can."

...

Q: "Can you remember if Mum asked if stuff ever came out of Peter's penis when you touched it?"

A: "Yes I can because it was on the videos."

20. The information which had prompted this questioning had been provided by

"On the night that you first got a response from your dter on 20 Feb, did you put specific matters to her you had heard from someone else? I started the conversation with that has told her Mum Peter has taken her into the toilets and

30 showed her his penis. You were specific with yr child as to what the allegn was? Yes. Where had you received that informn? had told me, she had heard it from mother."

21. Details of the circumstances that surrounded first "disclosure" were recorded in statement to the Police.<sup>20</sup>

<sup>17</sup> Source: Notes of Evidence at Trial, page 198

<sup>18</sup> Source: Notes of Evidence at Trial, page 185

<sup>19</sup> Source: Notes of Evidence at Trial, page 199

<sup>20</sup> Source: original statement to the Police dated 21 April 1992, pages 5 to 8: "I had my doubts so the more I had heard the more I was worried. I had talked to before I spoke further to rang me up specifically because I had been on the management committee. She told me that a girl had disclosed. She said that another girl had made a clear disclosure, she didn't say what. That would have been the first I heard it being girls. That would have been after I talked to you and a couple of days before I talked to At that point I had strong suspicions that something had happened but I didn't know what to do. Then on the Thursday night I got a phone call from She told me that

CONTINUING QUESTIONING

22. It is clear that from February 1992 [redacted] assured [redacted] that she believed her disclosures<sup>21</sup>:

*"From when your daughter first started disclosing did you keep reassuring her you believed what she was saying to you? I felt it was the most important thing I could do for her, she was saying some very frightening scary things and she needed to check to see if she was being believed and reassured."*

23. [redacted] abandoned earlier in the inquiry the advice she had received not to directly question her daughter. [redacted] gave the

had said that Peter had taken [redacted] into the toilets and shown them his penis. [redacted] was in bed but not asleep so I thought that I would go and tell her that. I knew that in terms of what you and Sue had said that it was the wrong thing to do but I just had to know. I went in and told her word for word what [redacted] had said. And I said, "Do you remember this?" She said, "Yes, he showed us but we didn't touch it". I asked her if his penis was sticking out or lying down. I demonstrated that with my hand, sticking out or lying down. She demonstrated back to me with her hand sticking out. Then she just said [redacted] sucked his penis and they didn't like the taste. Then she said, "He said it was a cup". I asked her, "Did you have to drink from it?" She said, "Yes, yucky stuff came out of it". I made notes straight after. I just came out of her room and just wrote it all down. My notes are word for word. I have a good memory for detail. Then she said he used to put water from a hose into a cup and then stuff from his penis and make us drink it. She said, "I didn't like it". I asked her if she had told anyone at the creche. She said she had told Marie that she had seen Peter's penis and Marie had said not to worry and to go home and tell her parents. I asked her, "Did he ever touch your vagina?" She said, "Yes". I asked, "When?" She said, "Do you remember the time I got covered in sand at the creche?" I said, "Yes". She said, "Well Peter gave me a shower after I got covered in sand and he touched my vagina then." .. I then said, "Did he touch you any other time?" She said, "Yes when I went to the toilet". I didn't ask anything more about that. I gave her a cuddle then. While I was doing that she said he used to say adult words. I asked her what the words were. She hesitated and I said that it was okay. She was allowed to say these adult words this once. She said they were ~~shit and fuck~~ up. Then she said [redacted] used to sniff his bottom. When she said that she went all sort of quiet and funny and said, "I was really scared to say that". I said that I was pleased that she did and that she was really brave. She also said, "He hit [redacted] and then she cried." I said, "Did he ever hit you?" She said, "Yes he hit me in the tree house and [redacted] ana [redacted] went and told Debbie but Debbie couldn't do anything because Peter was still there". Then I said, "Where did all this happen?" She said, "In the toilets and sometimes in the tree house". When she had told me about being in the park with Peter earlier she said that a little girl got lost. She said that Marie had to come and find her. I had asked her if she knew who the wee girl was and she said she couldn't remember. Then this night she just said to me, "Mummy I was the little girl who was lost in the park" and that she was with [redacted]. She said that she had been playing hide and seek with Peter and that he had just run away with the other kids and left them and that he was laughing as he went away. After that night I contacted you the next morning to arrange for [redacted] to be interviewed. She was interviewed twice by Sue SIDEY. Before the first interview and after she would say things to me that things had happened. For the first couple of days I did ask her questions and if she did say something and I wanted to know more I would question her about it. I made notes of these conversations."

<sup>21</sup> Source: Notes of Evidence at Trial, page 198

following response in relation to a question concerning her direct questioning of her daughter<sup>22</sup>:

*"q was it not quite contrary to the advice youd been given by sue sidey to ask specifically abt peter a well yes it was. i made a decision at that point, not t so much at that point it came later, but ive always been v. upfront with my daughter. shes used to being talked to in a way where she knows what im getting at immed, i dont pussyfoot around and neither does she. i think as becoming quite anxious abt questions that she didnt know where they were going or what they meant."*

24. Three days after initial "disclosure", her questioning of this is recorded in notes dated 23 February, at pages 7 to 8<sup>23</sup>:
25. During the course of her questioning of over the months, introduced various other sources of contamination. took to various addresses where it was alleged that Peter Ellis had abused creche children. For example, in June or July 1992 together with Detective Eade drove past 404 Hereford Street, the address at which the prosecution were later to allege abuse took place.<sup>24</sup> also walked past the Masonic Lodge and asked if she recognised the address. had earlier received information from that at least one other child had alleged abuse there.<sup>25</sup>
26. It is also clear from own notes that she continued to directly question throughout the following months. For example she records this continuing questioning of in her notes dated between 16 April and 6 May 1992<sup>26</sup>:

<sup>22</sup> Source: Notes of Evidence at Depositions, at page 513

<sup>23</sup> Source: original notes, at pages 7 to 8, dated 23 February record: "I asked if Peter ever touched her with his penis. She said yes, I asked where and she said on her vagina. I asked if it hurt - she said yes. I said how much and she indicated with her hands this much. She then said she was really scared about saying that and sat on my lap for a while. I asked her about the Park said they went to the Gardens, Hagley Park and once he took her to Beverley Park on her own, she was frightened but then Debbie and Marie arrived and it was O.K. He said he wanted this to take a long time I wanted it to be quick. I then asked her if stuff came out of his penis when he was touching her. Yes. Where did he put the stuff. In my mouth. So it was like when you had to suck his penis. No. It went in my vagina, then into my tummy and out of my mouth. I was sick and had a sore tummy."

<sup>24</sup> Source: Notes of Evidence at Trial, page 199

<sup>25</sup> Source: Notes of Evidence at Trial, page 199

<sup>26</sup> Source: original notes, at page 21, dated between 16 April to 6 May record: "Did you ever have a bath with Peter Yes. Who was with you



27. Again, it is recorded in \_\_\_\_\_ notes dated 9 June 1992 that she continued to question \_\_\_\_\_ see for example page 25 of \_\_\_\_\_ notes.<sup>27</sup>

28. Prior to the inquiry it is clear that \_\_\_\_\_ had some knowledge of the male anatomy. For example, \_\_\_\_\_ noted at the depositions hearing that \_\_\_\_\_ had had baths with her father and seen him without clothes on<sup>28</sup>:

*"...am I able to recall an occasion when I was in bed with my husband and my daughter was in the bed and she left the bed hurriedly - yes, most mornings she would come into bed for a cuddle and talk and usually climb in between us this particular morning she came in and all of a sudden leap out of bed screaming daddy has a penis daddy has a penis, she was very upset and I Imm got out of bed to comfort her and I said that daddy's penis was very safe um, I can't remember much more but I reassured her to climb back into bed and was quite happy that was not the first occasion she had seen her father's penis, she was at the time about 3 and a half... prior to this she had baths with her father and had seen him without clothes on..."*

29. \_\_\_\_\_ had also read a children's book about keeping herself safe and had talked with her mother about good and bad touching<sup>29</sup>:

*"Did you ever provide yr dier with any informn about keeping yourself safe prior to 1992? When she was little she had one book, I can't remember what it was called but it generally dealt with*

*saying no and she used to read the book and repeat no don't touch me or I don't like it something like that. When we were using that book and we used it over a period of time we would talk about good and bad touching. She was little though so we didn't go into it a huge deal."*

30. It is also clear from \_\_\_\_\_ own notes that she, on at least one occasion, questionec \_\_\_\_\_ when she was reading such a book<sup>30</sup>:

<sup>27</sup> Source: \_\_\_\_\_ original notes, at page 25, dated 9 June record: "Did Peter ever take photos?"

Yes...

<sup>28</sup> Source: Notes of Evidence at Depositions, at page 502

<sup>29</sup> Source: Notes of Evidence at Trial, at page 198 to 199

<sup>30</sup> Source: \_\_\_\_\_ original notes, at pages 37 to 38, dated 9 August record: "Talked to her about being difficult to tell on people who are sometimes nice. How children have said things and their mums didn't go mad. Read the Touching Book. That night \_\_\_\_\_ was looking at the Touching Book. She started talking about one of the pictures. This one has breast like Marie she said. I asked which one had breasts like Gaye - she pointed to a wee girl and said Gaye hardly had any breasts at all. I said so Gaye and Marie had no clothes on? - Yes, Peter made them take their clothes off. They were scared of Peter. When they had their clothes off did they do anything? - Yes, they touched me. They didn't want to. Peter made them. Marie told Peter not to touch me."

31. At the depositions hearing \_\_\_\_\_ accepted that she was suggesting that Marie and Gaye, as \_\_\_\_\_ described them in the book, had no clothes on<sup>31</sup>:

*"q. Your question was - I said so Gaye and Marie had no clothes on.*

*a. yes, that's right. The particular picture in the book, pictures of men having a shower and of women having a shower. They had not clothes on and that is what \_\_\_\_\_ was talking about.*

*35 q. You were sugg. that Gaye and Marie as she described them in the book had no clothes on.*

*a. yes. Yes. "*

### C. SHARING OF INFORMATION

32. Not only had \_\_\_\_\_ received information from \_\_\_\_\_ and \_\_\_\_\_ from December 1991, but from February 1992 \_\_\_\_\_ herself began to disseminate information to other parents.

33. Within days of \_\_\_\_\_ first "disclosure" \_\_\_\_\_ had attended an informal parent's support group meeting. Parents present included \_\_\_\_\_

*32 That particular night the support group had asked Detective Eade to come to talk as well. Detective Eade advised that they should not share information amongst themselves as to what their children had said. \_\_\_\_\_ choose to ignore that advice. At the Depositions hearing \_\_\_\_\_ stated:*

*Q. And you chose to ignore that advice from Det Eade*

*A. (Realised at a very early stage that if we were going to get through this year that I needed support, I also decided that court was not a priority for our family, our priority was trying to help our daughter*

*Q. So the short answer to the question is that you ignored the advice of det Eade*

*30 A. Yes."*

34. At trial \_\_\_\_\_ responded:<sup>33</sup>

*"Did you choose to ignore that advice [not to share information amongst yourselves what your children had said]? I have chosen at times when my daughter has talked about specific children to pass on information, because I was so grateful to get that information at the start I believed a parent had a right to know if my child had talked about theirs."*

35. \_\_\_\_\_ immediately informed \_\_\_\_\_ of \_\_\_\_\_ specific allegations that related to \_\_\_\_\_ daughter.<sup>34</sup>

<sup>31</sup> Source: Notes of Evidence at Depositions, at page 531

<sup>32</sup> Source: Notes of Evidence at Trial, page 195 and Depositions, at page 551 to 552

<sup>33</sup> Source: Notes of Evidence at Trial, page 195

<sup>34</sup> Source: Notes of Evidence at Trial, page 195