

**THE ALLEGATION THAT PETER ELLIS INDECENTLY ASSAULTED
BY TOUCHING HER VAGINAL AREA WITH HIS PENIS AT
THE CRÈCHE (COUNT 21).**

SOCIAL PRESSURE AND SUGGESTIVE QUESTIONING

76. At this point in the interview the social pressure on _____ to provide satisfactory answers intensifies. _____ repeatedly asks to leave the interview, "I want to go" (at page 34) and later on page 34:

Q: "Mn And _____ touched your fanny once"
A: "Yeah. Can you _____ now can I go"
Q: "Yeah nearly, nearly finished. And have any any big people ever done that to your fanny before or not"
A: "No, only Peter's only"
Q: "Pardon"
A: "Peter's only _____ What have you made there"
Q: "When, when did Peter touch your fanny"
A: "Don't know, no he didn't, only touched me"
Q: "He only touched you what"
...
Q: "Hey _____ he only touched you, what were you going to say. I asked you if he touched, if ah, you said Peter touched your fanny and I said where and you said no he didn't he only touched you - what"
A: "He only touched me here (indicates)"
Q: "What did he touch you there with"
A: "I don't know"
Q: "What, what"
A: "His penis. I want to go."
Q: "Yeah I know, yeah"
A: "Can I please go"
Q: "Pretty soon. We just talk about that one..."

77. The allegation arose out of direct and/or suggestive questioning and was compounded by a misrepresentation of what _____ had actually said. _____ I had twice denied other touching and it is unclear whether she was now alleging the touching or denying it for a third time, the interviewer interpreted her words as being an allegation and then restated it as such.

78. Clearly _____ wanted this interview to end and did not want to continue. The interviewer was adamant that _____ was not allowed to go, that they were nearly finished but first they needed to talk about more touching. The suggestive use of questions coupled with the social pressure, the overt message to _____ that she was not allowed to go until she had told the interviewer what she wanted to hear is deeply concerning.

**THE DETAIL OF THE ALLEGATION THAT PETER ELLIS INDECENTLY
ASSAULTED _____ BY TOUCHING HER VAGINAL AREA
WITH HIS PENIS AT THE CRÈCHE (COUNT 21)**

SOCIAL PRESSURE

79. Once [redacted] made the allegation that Peter Ellis had touched her with his penis the interviewer then attempted to elicit detail. The child made clear statements that she did not wish to continue, including "I don't want to" and "I want to go home" to which the interviewer ignored the child's pleas and indicated that the questioning would continue (at page 36)

FORCED CHOICE QUESTIONING

80. The interviewer ignored [redacted] pleas to leave and asked a forced choice question:

Q: "All right. If. Would you. Um, when his penis touched you there, were your clothes on or off"
A: "On"
Q: "They were on. What about his clothes"
A: "They were on"
Q: "They were on too"
A: "Yeah. But not his trousers"
Q: "How did his"
A: "I want to go." (at page 36).

81. It is submitted that Dr. Parsonson's criticisms of this interview and the effect on [redacted] are well founded: He demonstrates the "considerable levels of suggestive and/or direct questioning, the use of dolls to create opportunities, to allow genitalia and introduces topics, and misperception of what the child attempts to say."

82. The allegations were characterised by little voluntarily offered information and by very little detail. In contrast to this general position [redacted] however, is clear when she arrives for interview that she has been prepared for her purpose at interview. It is submitted that once [redacted] had provided the information that had originally been provided to [redacted] by [redacted] then [redacted] had wished to terminate the interview.

THE SECOND INTERVIEW: 28TH OF FEBRUARY 1992

83. The second interview has to be seen in the context of our knowledge of the dangers of repeated interviews.

84. In addition to the dangers of repeated interviews the use of anatomical dolls and their dangers in these particular circumstances are highlighted by Dr. Parsonson who says at page D89:

"Given the context of the interview (i.e., that it is about crèche and Peter Ellis) and the suggestive context in which these questions occur, concern has

to be raised concerning the methods used and about how valid information gained by this process might be."

85. The allegation that Peter ELLIS' penis touched vagina was revisited in the second interview of . Repeated interviews are now recognised as inherently dangerous and have a significant potential for inaccurate information being disclosed.
86. It is submitted that the risks of repeated interviewing were compounded by the use of an anatomically detailed doll. Whilst such dolls may have a place in therapy there was no place for such a doll in a second interview, particularly of this type. The interviewer gave the anatomically detailed doll, and after discussion concerning an allegation by that Peter ELLIS had seen her vagina.

SUGGESTIVE QUESTIONING

87. To elicit further details the interviewer used repeated suggestive questioning of for example, at page 21:

Q: "And whereabouts were his trousers when that happened"
A: "I don't know.."
..
Q: "...whereabouts were his trousers when he did that"
A: "On him"
Q: "Yeah whereabouts on him"
A: "Here"
Q: "Were they up here or down there or down there or"
A: "Up here"
Q: "so how did, were his clothes on or off when his penis"
A: "On on on on on and then he let me go cos. Shall we get these dolls out"

88. In addition, Susan SIDEY used suggestive forced choice questions in relation to the alleged state of Peter ELLIS' penis, at pages 22 - 24:

Q: "What did the penis look like, what did it look like"
A: "It looked like a normal penis"
Q: "Was it hard or soft or hanging down or standing up or what was it doing"
A: "Hard, bit hard"
Q: " A bit hard"
A: "Yeah a wee bit hard. What time is it"
Q: "It's nearly time to go and was it standing up or hanging down"
A: "Standing up"
.....
Q: "And were your pants on or off"
A: "On"
.....
Q: "So did his penis touch you underneath your pants or over the top...did his penis touch you on top of your clothes or underneath"
A: "Underneath"

.....

Q: "And what was he doing, was he standing up or sitting down or kneeling"

A: "Kneeling"

.....

Q: "And so his pants were up, so what about his fly, was it open or shut"

ANATOMICALLY DETAILED DOLLS

89. The interviewer then introduced a male anatomical doll, and asked to undress it (at page 25) and indicated to that they were going to play with the dolls (*"Okay well alright, just before we play with dolls I just want to help talk..."*).

90. The interviewer then realised that she had asked the child to remove the clothing of the doll and that has already seen and pointed out that the doll had a penis. indicated that the male doll *"doesn't need his pants on like that"* (at page 25). The interviewer asked to show her what happened using the anatomical dolls. From the video recorded interview it is evident that considered the dolls and attempted to juxtapose the dolls' genital areas, having the female doll bending over backwards and the male doll in front. (Both were in underwear. The demonstration provided by did not match her earlier verbal descriptions and it is submitted that arranged the dolls as they would fit rather than using the dolls to demonstrate her verbal allegations.

91. The interviewer then reverted to forced choice questions to elicit further "detail" (at page 25) demonstrating the inconsistency in accounts:

Q: "Mym and that happened once or more than once"

A: "Once"

and

Q: "did he have clothes on or off"

A: "On"

Q: "And how come, where were your pants when his penis touched you"

A: "No where really"

Q: "They were on or off"

A: "On"

and

- Q: "You said that it touched you underneath your pants before, is that right or"
- A: "yes"
- Q: "Wrong"
- A: "Wrong"
- Q: "Where did his penis touch, underneath your, yeah it touched there, yeah okay so it touched there and did it touch on top of your pants or underneath your pants"
- A: "On top of the pants"

92. then engaged in fantasy play with the anatomical dolls, saying that they were brother and sister. Clearly the use of the dolls may be fascinating to [redacted] who understands that in order to play with the dolls she must first understand the interviewer's questions to the interviewer's satisfaction, at page 27:

- Q: "..she had better get dressed soon, her night her nightie"
- A: "Has anyone else ever touched your fanny with their penis before or"
- Q: "Nope. I have to get her..."
- A: "Now I'm just feeling a wee bit confused so I just have to ask you once more"
- Q: "Yeah and then can we have a good play"
- A: "Yes now look, just held me here..."

The interviewer used the dolls again to get [redacted] to show her how the penis touched her (at page 27):

- Q: "Okay so it went underneath your pants"
- A: "Yeah"
- Q: "Or on top"
- A: "Underneath"

93. It is submitted that the conclusions referred to by Dr. Parsonson are reliable and confirm the known inherent dangers. Had the Jury been appraised with this evidence their apparent confidence in the testimony of [redacted] would not have been sustained.

THE THIRD INTERVIEW: 18TH OF MARCH 1992

94. It is submitted that this interview is further demonstration of why the New Zealand guidelines have adopted the position of the United Kingdom and much of America in decrying the use of repeated interviewing for evidential purposes.

95. The affidavit of Dr. Parsonson highlights the use of suggestive questioning and anatomical dolls in an atmosphere where the child consistently would prefer to return to play.

96. The interview whilst producing the allegation of indecent assault also produces inconsistencies with earlier accounts and puts pressure on the child to meet "the demand characteristics created by

questions and props such as dolls and toys". Repeated interviewing and repeated questioning can result in children changing their reports (cf. Ceci and Bruck 1993, 1995) compounding any problems that arise from suggestive questioning.

97. Dr. Parsonson's expresses concern that: *responses suggest that she is susceptible to suggestive influence of both direct and multiple choice questions and from the toys and dolls used as props. That she does not remember what she has said between and even within interviews raises doubts about her ability accurately to recall detail from some 1.5 to 3 years previously."*
98. The interview commenced with Susan SIDEY taking through truth, lies and promises "quickly" (at page 2). It appears then that indicated that there were allegations about Peter ELLIS that she didn't know previously but now did know:

Q: "Okay now lets, shall we just start with what you've come back to say today"
A: "No"
Q: "What was the easiest thing, you started saying some stuff before"
A: "I know _____ stuff that you took because this is full of stuff that I didn't know"
Q: "Okay then well tell me the stuff you didn't know"
A: "I don't want to tell you because I'm too scared to tell you and I thought you were going to get angry at me" (at page 3).

SUGGESTIVE QUESTIONING

99. The interviewer commenced questioning on the basis that she knew that was alleging that she had been taken to various places by Peter ELLIS. At page 7 of the second interview Susan SIDEY stated "After you started with Mrs Cox okay and now where else has Peter taken you" (at page 7). had previously alleged that Peter ELLIS had taken her to the QEII swimming pool by bus (see page 3,4).

CONTAMINATION

100. There is clear evidence that the child had been exposed to negative comments about Peter ELLIS, from statements at page 7: "he'll probably be inside ..his house, not on the streets because he knows that he'll probably be in trouble for being, for doing all those nasty things"

FURTHER SUGGESTIVE QUESTIONING

101. The interviewer then asked suggestively "what was the worst thing that he did to you body" (at page 8) to which responded "touching it..with his penis..about here, my leg" the interviewer then suggestively asked "what part's that that he

provided was not adequate for the interview and subsequently she provided an expanded answer. For example, at page 15:

- Q: "And did his penis go anywhere else on your body"
A: "No he could he could"
Q: "...Did his penis go anywhere else on your body, it went there"
A: "Yeah and it went up there and it went on my leg"

FORCED CHOICE QUESTIONS

106. The interviewer again resorted to forced choice questions to elicit detail of the allegations, for example, at page 16:

- Q: "When it went on your bottom, were your clothes on or off"
.....
Q: "What about your underpants, were they on or off"

and at page 17 after telling that Colin EADE had been passing notes in to remind her to ask questions the interviewer stated to

- Q: "Okay now look um I'm sorry I'm just going to ask you a few questions about the bottom and the vagina okay"
A: "Yep"
Q: "What I want you to tell me now is, when that happened, let's, we'll talk about the bottom first, were you standing up, sitting down, or lying down or kneeling, what were you doing"
A: "Kneeling"

USE OF DOLLS

107. demonstrated that the dolls were part of her pretend play rather than as representatives of herself and Peter Ellis when she refused to take the doll to the interviewer because "no she's still fast asleep" to which the interviewer stated "Oh could you get, just for a little whilst and then she can go back and play in her house" to which stated, "she's asleep" (at page 18)

108. then used the dolls to demonstrate her allegation as to the relative body positions.

FURTHER FORCED CHOICE QUESTIONS

109. Again the interviewer resorted to forced choice questions to elicit "detail" of the allegations, at page 18:

- Q: "was he standing up or down"

and at 19:

- Q: "Okay so was he standing up or sitting down"

and at page 20:

Q; "And you you lying down or standing up"

THE ALLEGATION AND DETAIL OF THE ALLEGATION THAT PETER ELLIS INDECENTLY ASSAULTED IN THAT HE TOOK THE CHILD TO AN UNKNOWN ADDRESS WHERE AN UNKNOWN MAN PUT HIS PENIS ON HER VAGINA (COUNT 23).

110. This allegation was made in the context of the fourth interview and was consistent with the known dangers of repeat interviews. The allegation of an attempted sexual intercourse by a man named "Joseph" was recorded in the fourth interview of on 27 March 1992. The allegation was elicited in the following way.

PLAY WITH DOLLS

111. There was substantial evidence of inappropriate doll use in this interview. For example, at the commencement of the discussion of the substantive issues the interviewer, Susan SIDEY, told "okay right so today what I'd like us to do is to play with the wee toys down here" (at page 2). Clearly this is not establishing wit- that the props and the dolls are to be used to facilitate the telling of allegations rather than free play.

SOCIAL INFLUENCE - INTERVIEWER BIAS

112. The first substantive topic in this fourth interview was introduced using social pressure "um I know that you've been um to some places with Peter. Where are all the places that you've been with him?" (at page 2). went on to allege amongst other things that Peter ELLIS had taken her to Sumner Beach with some other children, that he showed the children a big fish and tried to push them in.

USE OF PROPS

113. In a number of instances in the preliminary parts of this interview demonstrated that she was influenced by the props in her reports of allegations. For example, she was asked about the car that Peter ELLIS allegedly used to take her and other children to Sumner beach, she said "a white one like this" (at page 4).

EXTERNAL CONTAMINATION

114. asked the interviewer "Now shall we make up a jail for him" (at page 4) and stated at page 5 "Yep now I'll just have to get the beds ready and the jail ready and stuff, should Peter have an empty jail" and:

- Q. "But he was really bad, when will it be decided"
 A. "What"
 Q. "Um for Peter to go to jail or not"
 A. "Um I don't know, that's up to Colin." (at page 5).

and at page 5:

- Q: "So um who lives in Peter's house"
 A "Oh he lives by himself"
 Q: "Right and does he have some friends"
 A "Um of course he does yes, lots of friends, bad friends. His family doesn't like him though."
 Q: "How do you know that"
 A "Because mummy telled me"

115. These comments by _____ point to some discussion of Peter ELLIS in negative terms with _____

FURTHER DOLL USE

116. The interviewer then introduced dolls and invited _____ again to name the friends, which although she could not remember any names when asked at page 5, _____ listed Peter and Joseph and _____ (perhaps being one person). Given the use of the dolls at this time it is submitted that _____ was in fact assigning names to the dolls rather than supposedly remembering the names of the friends.

INAPPROPRIATE QUESTIONING

117. Rather than asking general open ended questions about what _____ was alleging happened at Peter ELLIS house the interviewer directly suggestively questioned _____ "whose penis did you see at Peter's house" to which _____ responded "Joseph's" (at page 7).

118. Through the use of a forced choice question "Joseph" was identified as being a "big man" (at page 7) and _____ alleged that he was "just teasing us with it [his penis]"

119. The interviewer again resorted to suggestive forced choice questioning "So did Joseph's penis touch you or not" to which _____ responded "Yep this Peter..Peter hurt me I mean" (at page 8) the interviewer then responded "Peter hurt yeah what did Joseph do, he was teasing you, is that right..where was Joseph's pants when he was teasing you" to which _____ responded "I don't know. I wasn't there silly _____ I..myself on the couch and I thought I would one of the bad girls" (at page 8). Despite the response from _____ that could indicate that this had not happened the interviewer approached the topic with _____ again on the basis that it had