

Scott Watson
C/- Christchurch Prison
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Christchurch

Official Secretary to the Governor-General
Government House
Private Bag 39995
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Dear Sir

Petition for the exercise of the royal prerogative of mercy

In the early hours of 1 January 1998, Olivia Hope and Ben Smart boarded a yacht moored off Furneaux Lodge in the Queen Charlotte Sound in the company of a man who described himself as a crew member of the yacht. They were never seen again.

There were three witnesses to the boarding. Two of them described the yacht as a large two masted vessel. The third gave it chest-high freeboard. Two recalled and described the yacht's crew member. They both gave him shoulder-length wavy hair.

More than fifteen hundred people were at Furneaux that night, some hundreds on yachts moored there. I and my yacht were amongst them. My yacht is a small one-masted vessel with kneehigh freeboard. Photographs taken on the night of the disappearance showed I had short-cut hair.

A police investigation ensued and eight days later, having spoken to me briefly twice and without any evidence at all, the police applied to the High Court to seize and search my boat on the grounds that it would be shown to hold evidence of murder. Two days later, according to a book (p 107 "*Silent Evidence*") certified as accurate by the policeman who led the investigation, Det Inspector Rob Pope, the police identified me as the prime suspect as the man seen boarding the yacht with Ben and Olivia. Then, according to an academic thesis

for the University of Canterbury which was informed by frequent interviews of Mr Pope, he told the press I was the killer (p 29, *Control of the Crime Story, Free speech vs fair trial*, by Cate Brett).

Over the next five months I was publically named and repeatedly made the subject of nationwide press gossip and speculation which amounted to 'trial by media'.

On 15 June 1998 I was arrested for the murder of the missing pair. At a depositions hearing in November 1998 I was committed for trial.

My trial began on June 15 1999, and continued until 11 September when I was convicted.

My appeal was heard and dismissed the following year.

Today:

Since then the case against me has dissolved and does not exist any longer.

- The two witnesses upon whom the crown relied to identify me as the person last seen with Ben and Olivia have both stated publicly that I am not that man and that they believe they had previously been tricked into identifying a photo of me.
- One of two prison inmates on whom the crown told the court of Appeal it relied for testimony that I confessed to them in prison has recanted and stated that his evidence was concocted by the police for him to give in testimony to the court.
- The large two masted yacht, which the police said did not exist, has been tracked by dozens of sightings to, around and then away from New Zealand in the summer of 1998.
- Many, many other discrepancies have been uncovered which went unnoticed at the time. Some of them, including major irregularities in the police inquiry and at trial, were brought to public notice in 2003 with the broadcast of a television documentary, *Murder On the Blade? (MOTB?)*. More came to light in 2007 with the publication of a book *Trial By Trickery (TxT)*. Despite their gravity,

the claims of fact made in those publications have not been challenged by anyone who is implicated in them, nor by anyone else.

My Petition:

I introduce below the matters brought forward by the film and book, both of which I now submit to you as a petition for the exercise of mercy.

A miscarriage of justice occurred in *R v Watson* and this is now undeniable. I am innocent of the murders of Ben Smart or Olivia Hope and had no part in their disappearance. I have never met or seen them.

The Issues :

There are many issues, all of them significant. Together they add up to a process of police investigation, trial and appeal which was corrupted at every stage by mistake and misinformation. The most crucial of them relate to identification and to a most significant error of fact by the Court of Appeal which ultimately relates to the prosecutors' conduct of the trial.

The author Keith Hunter sent a copy of his book and a covering letter to Mr Pope. The book was returned unread but the covering letter was referred by the police to the Independent Police Conduct Authority, which separately acquired and analysed its own copy of the book. It considered the book constituted a complaint against the conduct of the police, specifically against the then Detective Inspector Pope.

Specific complaints were identified and compiled into a list by the IPCA, which then instituted an inquiry which is yet to be reported. The complaints are noted at the end of this letter. However my petition to you is not confined to complaints against Mr Pope and the police. It relates to many more matters than just the conduct of the police.

There follows a general introduction to the issues detailed in *Trial By Trickery* and *Murder On The Blade?* on which I rely in seeking the exercise of mercy. For your convenience the issues are addressed as they arise in the book rather than as an indication of their priority in importance.

Chapter One: The Police Investigation:

- 1) Chapter One reveals that the police investigation was conducted under a cloak of secrecy in which the press, from the beginning, was told “off the record” that I was the killer, and “on the record” that there were no suspects. This is named in the book as “the Strategic Lie”. Its effect was the encouragement of press stories and speculation about me which on the one hand were safe from defamation action because I would be arrested in the end, and on the other hand were safe from charges of sub judice contempt of court because officially, and in the public arena, I was not a suspect. This process destroyed my right to a fair trial since the whole country was, for five full months, constantly treated to stories which condemned me and to which I had no way of reply.

The book describes this process in several contexts and bases each one in a comparison of the written record provided by the published press reports with the contradictory record of witness statements and information gathered by the police.

- 2) Please note in particular the matters of the “Suspect Profile”, the “Missing Anchors” story, the “Dive Shed Incident”, and the relationship between Mr Pope and the journalist Cate Brett which led to her “*North & South*” article of June 1998.
- 3) Please note too the phone tap applications. Briefly:

The police applied for and obtained interception warrants five times from 18/02/98. As a result, the homes and phones of my family and friends were under surveillance during the period 18/02/98 to 20/06/98 with one two day period when no warrant

was in force. During this four month period no incriminating evidence was obtained that warranted production in court.

It was not until March 2003 that my father obtained copies of the interception warrant applications and supporting affidavits. When he analysed them in comparison with police files he found the claims of the sworn affidavits were contradicted by the facts as represented by the witness statements and police job sheets. The misinformation provided by the affidavits is introduced under the heading 'Defamation' in *Trial By Trickery* at page 21 and detailed later at pages 57 - 61 and 240-242. It is yet to be established whether the affidavits include the rumour circulated around New Zealand that I was also a sexual pervert who had sex with his sister.

Chapter Two - Identification of the Mystery Man

4) Misinformation:

This chapter introduces and demonstrates a theme that runs throughout - that the prosecutors constantly misled the court with untrue statements of fact. Together the misleading statements amount to a serious breach of justice and of due process. They can only have had a strong influence on the jury.

The misleading statements included references to the description of the mystery man which matched me but not the descriptions given by the witnesses. Many of the misleading statements were plain. Others were matters of insinuation.

5) Identification:

The key witness, Guy Wallace, worked first behind the bar at Furneaux and later that night as a water taxi driver. He said that while working at the bar he served bourbon to the "mystery man" and later carried him with Ben and Olivia in his water taxi to the "mystery yacht" which he watched all three board together.

Three and a half months later Wallace was shown a photographic montage of eight men of whom only one had been at Furneaux. I was that one. The photo of me was taken twelve

days after the party. It showed me halfway through a blink, so that my eyes took on the appearance of being “hooded” or half closed. This matched descriptions of the man last seen with Ben and Olivia, the “mystery man”. No one else in the montage was shown like this and so I was the only one with apparently “hooded eyes”. My hair was shown as it always is, cut short, but Wallace has said he was told to ignore the hair because I had cut it since the New Year’s party. But there was a photo of me taken at the party which clearly shows me with my normal short hair. The claim I had cut it “to avoid identification” was false.

Wallace identified the montage photo of me with short hair and half-closed eyes taken twelve days later. But at the depositions hearing he was shown the photo of me with short hair (and with fully-closed eyes) taken on the night of the disappearance. He changed his mind and retracted, saying it could not have been me. He did this at both the depositions hearing and the High Court Trial. Both the judge and the Court of Appeal ignored the contradiction and stated he had identified me.

Guy Wallace was the most important witness in the entire case. The formal identification procedure with him was not carried out until 20 April 1998. Prior to that, he had been shown photos and video footage of me on no less than three occasions and had each time rejected me as being the mystery man. *Silent Evidence*, at page 109, indicates that one of these occasions was a formal identification procedure using a photo montage right at the beginning, on 11 January 1998. Wallace has spoken of this several times himself but it was never notified to me or my lawyers. A letter from Ms Nicola Crutchley, Deputy Solicitor General, to my lawyers on 22 December 2000 shows that it was kept from the prosecutors too.

Finally, after later identifying the “blink” photo of me, he agreed in court when asked if “*photograph 3 stood out to (me) more than any of the others*”. This was not an identification but a preference in a priority list.

- Wallace has now publicly and repeatedly stated that I am not the man last seen with Ben and Olivia.

- Had he told the court I was not the man in the water taxi with him and Ben and Olivia, as he has now made plain, I could not have been convicted.
- The Court of Appeal stated that:
“It is beyond question that the case against (me) depended substantially on the correctness of (Wallace’s) identifications, because if they were incorrect the Crown case was seriously undermined..”
- Wallace can be seen clearing me in his own words and person in *Murder On The Blade?* in Part Three at 01.39.36. His words are reprinted in *Trial By Trickery* at p 89. These clear me unequivocally.

6) The second most important identification witness was the bar manager, Roz McNeilly. She also identified me from the same montage on account of the half-closed eyes and her testimony makes clear it was for no other reason.

She too has since said she was told to ignore my hair in the photo because I had cut it since the party. Long after the trial and after seeing, for the first time, the photo of me taken on the night of the party, she provided an affidavit to the effect that I was not the man who she served at the Furneaux bar, who Wallace said was the man he took on his water taxi to the mystery yacht with Ben and Olivia. I enclose a copy of that affidavit.

- McNeilly can be seen clearing me in *Murder On The Blade?* in Part 3 at 01.37.39. Her evidence in court is discussed at page 96-97 of *Trial By Trickery*.
- 7) The photo used in this identification process was the subject of defense protest and the judge admitted it on the basis that:
“.. it is obvious that the accused does from time to time maintain that appearance. That being so, it was a legitimate photograph to put forward ... It may well be that it is a pose that he sometimes, from time to time adopts.

But it is not a pose that I sometimes adopt at all. I was blinking.

- 8) There are many other issues relating to identification which are addressed in this chapter of the book, most notably the discrepancies between witness descriptions of the length of the mystery mans' hair and mine that night which are proof that we were not one and the same person.

Chapter Three: Re the Two masted Yacht

- 9) In opening the Crown case, the prosecutor told the jury no-one had reported seeing the mystery yacht, or "mystery ketch". Her statement was untrue. This chapter reveals the people who saw it both at Furneaux and later. Despite these and many other sightings, the police said this yacht did not exist. They decided on this just two weeks after the disappearance, by 14 January according to John Goulter's *Silent Evidence* at page 120.

Those who saw it at Furneaux all located it in the same place, about 150 metres from where my boat had been moored. The only apparent reason for the police to have ignored the sightings was because it was not where my yacht was moored.

- 10) In dealing with the way the prosecutors used the evidence, the book shows that the process was one of distortion which can only have misled and confused the jury as to the evidence they had actually heard

Chapter Four : The Circumstantial Evidence.

- 11) Most of the evidence provided by the Crown related to actions I had taken which are normal and can be explained as normal:
 - The Crown opened with the statement that the vessel 'Blade had been thoroughly cleaned saying that "*all hard surfaces had been wiped down*" and "*all*" cassette tapes too had been wiped. Crown expert witnesses later rubbished these claims. I had cleaned my yacht after a storm. The prosecutor said I had

scrubbed it meticulously to get rid of evidence but the Crown's own witnesses made it clear I had not.

- The Crown also claimed that no fingerprints were found when many were, and the police fingerprint expert voiced the opinion that he had found neither more nor less than he would have expected.
- I painted the yacht's cabin. The prosecutor said I did this to change the yacht's appearance. But a prosecution witness said I had planned to do it weeks before and he himself had recommended I paint the cabin. Painting it could not hide it from the people on the boats I told the police I had moored up to at Furneaux. If I had wanted to hide my being at Furneaux I would not have reported to the police on discovering the disappearance. Boating people paint their boats all the time.
- I had stowed away a navigation windvane while in the enclosed waters of the Sounds. The prosecutor said I was trying to change the appearance of the yacht but I did only what the manual recommends.
- The prosecutor said I hid the windvane at the back of a cupboard but if I had stowed at the front of the cupboard I could not have accessed the things behind it.
- My nieces had scratched the hatch cover leading from the cabin. The prosecutors said the scratches had been made by Olivia frantically trying to get out but they knew that some of the scratches could only have been made when the hatch cover was open. They also knew that hatch covers are secured from inside, not from outside. All anyone in the cabin has to do to get out is to untie and open it.
- I had scrubbed weed off part of the hull of my yacht. The prosecutor said the hull had been cleaned by bodies rubbing up against it when I threw them overboard weighted to go to the bottom. This required bodies weighted to sink to the bottom to have at the same time the ability to float up under the hull with sufficient force to clean it.

12) Three matters were direct evidence:

- Guy Wallace had identified me from the blink photograph. He has now retracted and stated publicly that I am not the mystery man.

- Two prison inmates testified that I had confessed to them in prison. One has now retracted. The other, a lifelong and violent criminal, has been treated with extraordinary leniency by the police, right up until the present time. He was given use of a car, a cellphone and the offence he was charged with was reduced from “injuring with intent to cause grievous bodily harm” to “male assaults female”.
- Two hairs were found in two plastic bags containing hairs taken from a blanket on my yacht. The hairs were said to come from Olivia although my counsel disputed the accuracy of the DNA analysis. There are alternative means by which these could have arrived in the bag of hairs. When the bags of hairs were first inspected they were not seen. Only six weeks after the bags had first been opened and their contents subjected to intrusion were the two hairs noticed. In the absence of the other direct evidence, the hairs would not by themselves have been sufficient to provoke a guilty verdict.

Chapter Five: The Alleged Voyage from Cook Straight to Erie Bay

- 13) In order to convict me it was necessary for the prosecutors to propose a method and location for me to have disposed of the bodies of Ben and Olivia. They chose to go with a sighting of a small yacht in Cook Straight at 4.30 pm on 1 January 1998. They claimed that it was my yacht and I was out there dumping weighted bodies into deep water.

However the evidence was that I had arrived at a friend's home eleven miles away in Erie Bay earlier in the day so it could not have been me in Cook Straight.

Over a period of weeks the evidence of the “friend” gradually changed and my arrival in Erie Bay became later and later in his and his two children's evidence. This change followed the discovery by the police of a large plantation of marijuana on the Erie Bay estate the friend was paid to look after.

Det Inspector Pope approved for publication that the friend was prosecuted for “possession for supply”. However the real charge

was reduced to “cultivation”, despite the marijuana plants discovered numbering in total 250.

- 14) Eventually the friend testified that I had arrived at Erie Bay at around 5pm on 1 January. This was after the sighting in Cook Strait, but only by half an hour. It required my yacht to have travelled eleven miles in half an hour, namely 22 knots.. The maximum hull speed of a small yacht the size of mine is 6 knots. Keith Hunter tested my yacht on the same trip and under the same conditions of wind and tide. It took him two and a half hours to go from the location in Cook Strait to Erie Bay.

Since it was vital to the Crown case and since the police had possession of my yacht for some months, they should have used this time to carry out the same test. But if they had done the test they could not have proposed that it was me in Cook Strait. They did not do the test.

The prosecutors ignored the physics and the hydrodynamics and relied on it being me out in Cook Strait dumping bodies as their answer to the disposal of the bodies. But it obviously could not have been me and so the Crown case lacks, and has always lacked, a feasible answer to the disposal of the bodies. There was a very tight time frame, an hour to two, for me to have disposed of them and I would have to have done it somewhere in Queen Charlotte Sound, in fact in Tory Channel itself. But this would not have been feasible as the Sounds were full of holidaying boats and boaties. No-one would take the risk of discovery - and there is no deep water.

Chapter Six: The Two Trip Theory:

- 15) Right at the beginning the police had asked me what time I had returned from the Furneaux party to my yacht. I told them that I thought it was at about 2am but I had been drunk at the time and didn't really know. However I did remember that I had been taken back to the boat in a water taxi and there had only been the driver and myself in it.

The police said I was lying about the time and the trip and that I had gone back with Guy Wallace and Ben and Olivia at 4am or thereabouts.

When they interviewed me and I said 2am, according to *Silent Evidence* at page 107 I was already their prime suspect. But they did not tell me I was a suspect or give me the normal warning that what I said might be used in evidence. Had they told me I would certainly have tried harder to remember and called for a lawyer before answering.

- 16) At trial a water taxi driver said he had taken me back to my boat alone. There was no hint during the trial that the prosecutors accepted this evidence. The case against me was that I had lied when I said I had gone back alone at 2.am. As a result my lawyers thought that their main responsibility was to show that I had indeed returned alone since this had the potential of destroying the case against me by itself.

Then in his closing speech the Crown Prosecutor suddenly told the jury that I had gone back to my yacht alone at 2am, then returned ashore and then gone back to my yacht again at 3.30 - 4am with Guy Wallace and Ben and Olivia. This has become known as the “two trip theory” and its arrival in the prosecutor’s closing speech was the first time it was put to the court.

In fact I was wrong about the time I had returned to my yacht because it turned out that all nine people in the boat next door were up and awake until 2am when they all went below. These people gave statements to the police. One of them had been unable to sleep and twenty minutes later went back up and sat on the deck for twenty or thirty minutes. When she went below again I had not returned, nor by the time she eventually went to sleep. So I could not have returned before at least 2.45am

When I did return I went on to the boat next door and woke some of the people there - though not the woman described in the preceding paragraph. Then I went over to the boat beyond, where I woke two more people. One of them, another woman, stayed awake for half an hour after I woke her. In her statements she spoke of listening to the the quiet of the night as she lay

there. If I had gone ashore again after waking her she would have heard me. She didn't. So if I had returned immediately after the woman on the first boat went to sleep, say at 3.00am, and then woken the second woman at that time, I could not have returned ashore for at least another half hour - at about 3.20am. But I was known to have been ashore from 2.45am until at least 3.30am.

- 17) All this shows that I could not have returned to my boat at all until after 3.30am and this is inconsistent with the two trip theory. Since the prosecution accepted that my lone return was true it could not have occurred until after 3.30am - but this was about the time Ben and Olivia set off with Guy Wallace and I could not have done both trips at the same time.
- 18) Because my lawyers were unaware of the two trip theory until essentially after the trial had ended, they did not ask the two women on the boats next door, nor anyone else on those boats, if I had returned while they were awake. Nor did the prosecutors. Throughout the entire trial no evidence was presented, or sought, of a return trip to shore and therefore no cross-examination was directed to countering this proposal. The jury was told that while there was no evidence to support a return to shore, that it was their legitimate function to "infer" or guess.
- 19) If the two women had been asked they could only have both have said I had not returned before they went to sleep and so the two trip theory could not have been proposed.
- 20) I was convicted on the scenario of the two trip theory.

Chapter Seven: The Judge

- 21) The trial judge Justice Heron became involved in 'Operation Tam' a year before the trial when, on 20 May 1998 he had issued the final interception warrant on application by Det Inspector Pope. He was thus exposed to the culmination of the untruths presented to the High Court by Mr Pope. Justice Heron took these untruths as fact and issued the interception warrant in the belief that they were true.

- 22) This connection was not known until 2003. Nor were the false statements in the affidavits known until then. The judge could not fail to have been influenced by the false statements. In pursuit of both justice and the appearance of justice he should have withdrawn from the case at the beginning. Instead he kept his previous connection secret from me and my counsel. Had I and my lawyers known of this connection and had we sighted the affidavits on which he acted, I would have both corrected the misinformation they contained and asked Justice Heron to withdraw. I would certainly have made his involvement in these circumstances a ground for appeal.
- 23) The judge was also a very ill man, a dying man according to a colleague who spoke at his funeral a few years later. He had been advised by colleagues to put the trial aside and rest. Instead it became his last major trial. He made many errors of fact and logic in it and was clearly of the view that I am guilty, which it is reasonable to assume stemmed from his acquaintance with the false statements he had read in Mr Pope's affidavits. The Court of Appeal had to concede that his final words to the jury could be taken as an instruction to bring in a guilty verdict:

"It would be, of course, of considerable benefit if you could put this dreadful event in the life of our country to finality by a verdict according to law but only in accordance with the oaths and affirmations you have taken".

A not guilty verdict would not have provided finality.

Chapter Eight: The Court of Appeal

- 24) The book discusses several of the grounds I took to the Court of Appeal. All are vital to my case but one by itself provides cause for my release and retrial. It is the treatment by the Court of the two trip theory. On this the Court's judgment contains a major error of fact which has concealed the miscarriage of justice from its view.

25) In paragraph 44 of the judgment, the Court states:

- i) *“It was suggested that more extensive cross-examination of the witnesses who were on board the "Mina Cornelia" and the "Bianco" as to the timing of the appellant's return with Mr Anderson would have been undertaken. Similarly as regards the witnesses to the Perkins incident ashore, and the absence of evidence as to how the appellant may have returned to the shore. **But an examination of the transcript shows that there was extensive cross-examination on those issues.**”*

The Court is wrong. An examination of the transcript shows, not only that there is no extensive cross-examination as to “how I may have returned ashore”, but that there is no such cross-examination at all. Nor is there any reference at all to a trip ashore in direct examination.

The trip ashore under discussion is the trip required between the two trips of the two trip theory. The matter of a return to shore in this context is entirely absent from the transcript of the trial, as is the notion of my twice going to my yacht that night. Instead, at every point where reference to two trips and a return between them might in review be expected to have been pursued in direct examination, the examination was directed elsewhere.

Since the matters did not arise in direct examination, it was unknown to me and my counsel that the Crown case rested on my taking two trips to my yacht and a trip ashore between them. The case I defended was one where I was accused of a single trip to my yacht in the company of Guy Wallace and Ben and Olivia. Not knowing of the two trip theory I did not defend myself against it. Since it did not arise in direct examination there was no cause for it to arise in cross-examination, and so it did not.

It is apparent then that I did not and could not defend myself against the charge against me because I did not know what that charge was. This matches the situation described at the beginning of Chapter Eight which quotes a dissenting judgment

in a Privy Council judgment on a recent New Zealand criminal case:

A trial where the appropriate rules of evidence and procedure are observed can properly be regarded as fair. But not every failure to observe the rules makes a trial unfair. In practice, mistakes can and do occur and so the courts long ago devised means of putting many of them right within the context of the trial itself. Even where a mistake is not corrected, the trial will still be fair if, in all essential respects, it is the kind of trial which the law expects that an accused should have.

But, equally, it is recognised that some flaws are so bad that one can say that the accused has not had that kind of trial. Obvious examples are where the judge or jury is biased or the accused is prevented from putting forward his defence. Of their very nature these flaws inevitably deprive the accused of any real trial of the allegations against him. No one would suggest that such a trial could be regarded as fair.

Privy Council, Dissenting judgment by Lord Rodger of Earlsferry and Sir Andrew Leggatt; in *Howse* 19 July 2005

This quotation, with its reference to the observing of the proper rules of evidence and procedure, and to where “*the accused is prevented from putting forward his defence. Of their very nature these flaws inevitably deprive the accused of any real trial of the allegations against him*”, describes my situation, my trial, and the causes of my appeal to you for mercy.

Had they known about the two trip theory my counsel would have examined the two women on the boats next to mine as to whether I had returned to my boat while they were awake. If they answered according to the statements they had made to the police, the jury would have discovered that I did not return to my yacht until after 3.15 am. This would have been a complete answer to the two trip theory and I could not have been convicted on it.

Summary:

In a retrial the jury would hear:

- From Guy Wallace that I was not the mystery man last seen with Ben and Olivia.
- From Roz McNeilly that I was not the man she served at the bar whom Guy Wallace identified as the mystery man last seen with Ben and Olivia.
- From the two women on the boats next to mine, Deborah Corless and Deanna Cunliffe, that I did not return to my yacht at 2am or any time near it and not till after 3.15 am and therefore that there could be no two trip theory;
- From Secret Witness A that the police wrote his evidence and he retracted it because his conscience would not allow him otherwise;
- From the prosecutors none of the misinformation conveyed by them in the first trial - because my lawyers would be forewarned.
- From Det Inspector (Deputy Commissioner) Pope an admission as to the Strategic Lie in its many guises - because my lawyers would be forewarned and forearmed about it, would call him as witness and confront him with the factual documentation which exposed the Lie - demonstrating that the trial by media I was subjected to deprived me of a fair trial.

In the circumstances I have described no jury could possibly find me guilty because it would be obvious, and is obvious, that I am innocent. I respectfully ask that you require my release either under pardon or at least pending retrial. However I ask more than this. It is vitally in the interests of justice in more general terms that an inquiry be held.

Legal advice is that it would be improper for my agents to contact the various people who have publicly clarified or withdrawn their evidence as crown witnesses and who would also be crown witnesses in any future trial should one be ordered. In consideration of the allegations concerning the police investigation made in *Trial by Trickery*, I suggest that it would also be improper for these persons to be re-interviewed by police.

I would respectfully suggest that an inquiry under your independent auspices would be the best means of exposing the facts relating to my case. Such an enquiry would need to look at the case in its entirety, including the police investigation, the involvement of the media, and the actions of the trial judge, rather than isolated points of law.

As a prisoner I have no secure means of communication or access to either my case file or documentation. I also have no means of copying or transferring documents. I suggest that communication be through my father Chris Watson who will keep me informed and will take advice as required. His contact details are:

C. J. Watson
PO Box 336
Picton 7250

Ph. 03-573-8979
Mob 027-671-6690

Email CHRISANDBEV@xtra.co.nz

He will also be able to provide documentation as required.

And of course my own address is:

Scott Watson
C/o Christchurch Prisons
PO Box 4726
Christchurch

Yours Sincerely

Appendix A : The IPCA inquiry into the police investigation

Ten areas of complaint have been identified for inquiry and report concerning the police investigation.

The main headings are:

1. The Strategic Lie - that **Inspector Pope** deliberately told the press and New Zealand public that I was not a suspect while also telling journalists unofficially that I was the killer, his purpose being to create a situation where the press could identify, attack and malign me without risking 'sub judice' contempt of court proceedings.

2. Tunnel Vision - that **Inspector Pope** formed the view within five days that I was guilty of murder and then conducted his enquiry so that his officers ignored any evidence or indication to the contrary.

3. Mystery Ketch - that **Inspector Pope** gave orders to cease searching for the 'mystery ketch' "*within a week*" of taking command of the enquiry, and then informed the press and public that the ketch did not exist despite receiving numerous eyewitness accounts of it over an extended period and despite statements from the three eyewitnesses aboard the naiad confirming a vessel differing markedly from my own.

4. Suspect Defamation/Rumours – that **Inspector Pope** made a practice of creating and circulating false rumours against me and my family and of then refusing to comment on them when questioned by the press;

- that **Inspector Pope** repeatedly informed the public, via the press, that I matched the description of the 'mystery

man' last seen with Ben and Olivia, always knowing that this was untrue;

- that **Inspector Pope** ordered a 'suspect profile' of me be created and then distributed it amongst the families of Ben and Olivia and amongst large groups assembled to search for the missing pair, the purpose being to identify and confirm me as the police suspect and at the same time to defame me and create widespread public antipathy towards me;
- that **Inspector Pope** spread a rumour that I had cut my hair to avoid identification as the 'mystery man' despite knowing this to be untrue;
- that **Inspector Pope** published an insinuation that I had assaulted a woman in the 'dive shed incident' at Furneaux Lodge, despite knowing this to be untrue;
- that **Inspector Pope** deliberately spread false and defamatory rumours about my family (that the Watson family was to be feared);
- that **Inspector Pope** spread a false rumour that I had an incestuous relationship with my sister;
- that **Inspector Pope** told journalist Cate Brett, then of *North & South* magazine, that witnesses had seen Ben and Olivia boarding a one-masted sloop;
- that **Inspector Pope** encouraged Brett to write a defamatory and distorted article attacking me as violent and out of control when influenced by alcohol, for publication in *North & South* magazine at exactly the time he was preparing to arrest me;

5. Suspect Photo Identification - that **Inspector Pope** chose a 'trick' photograph for use as an identification tool, this, after having failed to gain an identification using the previous

montage A, knowing that it promoted an untrue impression of my appearance – This being the only one with half closed eyes. There is also criticism of the police practice of showing the prime witnesses a single photo of me in the early stages of the enquiry and their repeated use of poorly constructed photo arrays.

6. Coercion of witness (Alibi) - that **Inspector Pope** coerced a witness (Mr. Erie) found with 250 marijuana plants into giving false evidence by first threatening his access to his children and then promising that he would charge him only with 'cultivation' if he complied, and then, as a cover-up, he falsely approved for publication that he had been charged with 'possession for supply'.

7. DNA Contamination – It is alleged that Olivia's hair may have been "*planted*" by the police or poor practices have resulted in an accidental cross contamination.

8. False Information in Sworn Affidavits – that **Inspector Pope** swore multiple false oaths.

9. Duration Test - that **Inspector Pope** did not test the duration of a voyage by the sloop *Blade* from Cook Straight to Erie Bay because he knew it would contradict any case against Watson.

10. Secret Witnesses - that **Inspector Pope** bought the testimony of two prison inmate 'secret witnesses' by offering them favourable treatment in return for false evidence claiming Watson confessed to them in prison. One of these, "Witness A" has since recanted his evidence and was considered by the then PCA Judge Borin to be so unreliable that it was impossible to come to a conclusion as to the reliability of the witness.

Appendix B

*“...Then there is the matter of the way in which he dealt with this whole matter as a citizen I suppose. Because you heard from witness after witness who have said to you well we were out there and we were at Furneaux and we heard about this on the radio and we got in touch with the police very smartly....
.....But just think about the situation of Mr Watson for the moment. There he is in Erie Bay painting his boat, lovely day, probably has the radio on, 2nd January and then that afternoon, that evening, the next day the message start going out about the disappearance of this young couple. On 3rd January he makes his way back across to Picton by which stage of course he must have known the police were looking for this young couple. Does he go in and tell the police anything about where he was? He meets up with his family, the hottest topic no doubt going around at that stage, what’s happened out at Furneaux. Scott you were there weren’t you? What story do you know? So they must have raised that sort of thing with him. Did he go and see the police? No he and Sandy join forces and head off out back into the Marlborough Sounds...?”*

Crown Prosecutor Paul Davison QC, Closing Address to the Jury, *R v Watson*.

“As (Gerald Hope) saw it, the media were not attracted to the story until a small paragraph appeared in the Sunday Times of 4 January which was followed up by Andi Brotherston who, for television viewers broke the news on TV3 that night....”

Silent Evidence p 42, John Goulter.