FORMAL STATEMENT

……. states:

1. My full name is…

2. I am a registered medical practitioner, qualifying…

3. I am…

4. I am familiar with the Code of Conduct for Expert Witnesses and agree to abide by it.

5. The following statement details the information as to history and medical findings on the basis of which I have reached my conclusions. If there is any further information which may be relevant to my opinion, I would of course be happy to consider it.

6. I examined Gillian Starbright, a 6-year-old girl, on 29 September 2022, beginning about 10.30 am, assisted by Karen Togi, Nurse Specialist. Gillian was referred to me by Detective Claire Rogers, of the Henderson Police Child Abuse Team.

7. I am aware that Gillian is the complainant in charges brought by the Crown against Sirius Black, with regard to alleged sexual offences against Gillian in June and July 2019.

8. In preparing this report, in addition to my own assessment on 29 September 2022, I have considered the following material:

- The Indictment prepared by the Crown, including the Summary of Facts.
- Pages 1, 23, 24, 25 and 26 of a 47-page Transcript of a Videotaped Interview of Gillian by Leanne Raffills at the Central Auckland Video Unit on August 1, 2019
- An affidavit by Diamond Amethyst Starbright (9 pages)
- All clinical records for Gillian available in the Auckland District Health Board clinical record system and online through the Concerto system from the Waitemata District Health Board.

9. Gillian was accompanied to her appointment by her mother, Diamond Starbright. I did not question Diamond or Gillian with regard to the alleged sexual offences.

Medical history

10. I spoke to Diamond on September 29, apart from Gillian. I asked Diamond about the rash which she reports seeing on Gillian's genitalia in August 2019. Diamond said that Gillian was "*really red and inflamed down there the time I picked her up.*" She described the redness as *"in and around the lip area"*. Diamond did not take Gillian to the doctor but treated the rash with Pimafucort (a commonly used ointment which contains a mixture of an antibacterial, an antifungal and an anti-inflammatory). The rash took about 3 days to settle down.

11. Diamond told me that Gillian had never been red like that before, except for nappy rash as a baby. I note on reviewing the hospital records, that Gillian was seen in Starship Children's Emergency Department for an abscess on the left labium (the "outer lips" of the external genitalia) when she was 18 months old. This responded to oral antibiotics.

12. Once out of nappies, Diamond said that Gillian never had any rash "down there", except occasionally in the summer, when she might have a little bit of redness, for example after being at the beach. Diamond would manage this by getting Gillian to have a bath, and the next day the symptoms would have resolved.

13. There had never been any vaginal discharge. Gillian did have some stinging on passing urine when she had the redness in August 2019, a common symptom in girls with inflammation in the genital region.

14. As is my standard practice, I took a detailed medical history from Diamond and Gillian together, and performed a physical examination, including a genital examination using a colposcope.

15. With regard to her medical history, Gillian has been generally well, except for recurrent ear infections since the age of one year. She had grommets twice (aged 2 years and 3½ years). Despite this, she still gets frequent ear infections, requiring a course of antibiotics prescribed by her General Practitioner approximately every 2 months. Her hearing however is normal, and apart from some minor delay as a toddler, her speech development has also been normal.

16. Gillian's growth and development has been normal. She goes to school in Erewhon.

17. Gillian is one of six children, and there is no family history of note. In particular, there is no history of skin conditions such as eczema.

18. At the time I saw her, Gillian was on no medications and had no known medication allergies.

19. I asked about other symptoms which might be relevant to the reported history of a rash in August 2019. Diamond said that Gillian has never had any eczema or asthma. She has never had contact dermatitis (for example, in response to washing detergent) or any other significant skin condition. She has never had a urinary tract infection. She has no significant history of constipation, although every now and again she may pass a hard bowel motion. She has never had any bleeding on passing a bowel motion. She has no history of pinworms.

Medical Examination

20. On examination, Gillian was on the 90th percentile for height and weight, that is, well above average. Both eardrums were scarred, consistent with her history of recurrent ear infections. Her general physical examination was otherwise unremarkable, except for a linear scab on the back of her left hand, where she had been rubbing the skin.

21. Gillian was pre-pubertal – that is, she had no significant breast development, and on genital examination, she had no pubic hair or signs of oestrogen effect on the genitalia.

22. There was no rash on the external genitalia. Her genital examination was normal for age. In particular, she had a normal crescentic hymen.

Conclusion

23. The rash that Gillian had in August 2019 is a non-specific finding.

24. On the one hand, Gillian was a child who (since she had come out of nappies) had never had a significant rash in the genital region. On my enquiry and examination, she has no evidence of any condition which would predispose her to a genital rash. Although it is true that some girls on recurrent antibiotics for ear infections are at risk of genital thrush (a fungal infection), there is no evidence that this was the case in Gillian. The rash, as described by Diamond, appears to have been qualitatively different from any rash in the genital region before or since. It is therefore possible that Gillian's rash may have related to the alleged sexual abuse.

25. On the other hand, genital inflammation does occur from time to time in girls who have no prior history of genital rash. Also, Gillian spent several weeks in the care of caregivers who were not her usual caregivers. It is possible that different hygiene practices while she was not in Diamond's care, may have increased the risk of genital irritation, and that the rash had nothing to do with the alleged sexual abuse.

26. In sum, with regard to the allegations of sexual abuse, in my view the genital rash neither supports nor refutes the allegations.

27. The same is true of the normal genital examination.

Discussion

28. My conclusions require some explanation.

29. Many people assume that any sexual activity involving penetration will necessarily result in damage to the genitalia which the doctor will be able to see.

30. In fact, in the literature and in my experience, most children who allege sexual abuse will have a normal genital examination.

31. I refer the court to the most recent guidelines issued by the American Academy of Paediatrics (AAP). Specifically, the guidelines state: "*Most sexually abused children have normal anogenital examinations*". (Jenny C, Crawford-Jakubiak JE; Committee on Child Abuse and

Neglect; American Academy of Pediatrics. The evaluation of children in the primary care setting when sexual abuse is suspected. Pediatrics. 2013 Aug;132(2):e558-67).

32. Similarly, the equivalent guidelines in the United Kingdom state that: "*a high proportion of children who have been sexually abused do not have anogenital signs at examination*." (The Physical Signs of Child Sexual Abuse. An evidence-based review and guidance for best practice, Royal College of Paediatrics and Child Health, 2015).

33. There are several possible reasons why Gillian's genital examination may have been normal.

34. One possibility is that the alleged sexual abuse never took place.

35. Another possibility is that the alleged abuse took place, but that any injury resulting had healed by the time I saw Gillian. In this area of the body, many types of injury, such as abrasions or bruises, will disappear within days.

36. A third possibility is that the alleged sexual abuse occurred but caused no injury.

37. Many find this third possibility the hardest to understand.

38. It is helpful to understand the anatomy of the genitalia in children.

39. Firstly, it is helpful to appreciate that an object must go inside the genitalia a little way before it will reach the hymen.

40. When I examined Gillian, I examined her in the way I usually examine children of her age. She was supine (lying on her back) on a medical examination couch, with her mother by her side. Her mother had taken off her lower garments, and her lower half was covered by a blanket. Gillian's legs were bent at the hip and knee, her feet close together and her legs splayed.

41. I sit on a stool at the foot of the bed and look at the external genitalia from below. In this position, what I saw in Gillian looked very much like the diagram shown in Annexure A. This diagram is labelled "pre-pubertal," because it refers to the appearance of the genitalia in children (like Gillian) who have not yet gone into puberty.

42. It is immediately apparent that I am not looking directly into the vagina itself. In fact, I am looking at the external genitalia, most of which are made up of the “labia majora” (or “outer lips”) which enclose the vaginal entrance on either side.

43. For me to see the entrance to the vagina, I must grasp each outer lip with a thumb and forefinger and pull them towards me and apart. This manoeuvre is known as “labial traction.” When I do this, I can see the area between the outer lips, which is known as the “vestibule.” Now, what I see is similar to the diagram labelled “Annexure B.”

44. The hymen, labelled in this diagram, is not on the outside of the genitalia, but some way in. The vestibule (which comes from the Latin word for the foyer of a house) is actually in the shape of a short funnel, with the lips on each side, the clitoral hood in front, the junction of the lips behind (the “posterior fourchette”), and the vaginal canal at the inner end.

45. Penetration of the genitalia is accepted to mean the entry of some object between the outer lips. There is no membrane stretched between the labia which can be torn to define the imaginary line which must be crossed.

46. The best way to appreciate the distance that an object must penetrate the genitalia to reach the hymen is to consider the anatomy in what we call a “sagittal section.” This is shown in Annexure C, which is a picture taken from a well-known medical textbook (Reece RM, Christian CW. Child abuse: medical diagnosis and management. 3rd edition. American Academy of Pediatrics, Illinois; 2009). Sagittal section refers to a picture drawn as if the child were divided down the middle, and the genitalia were looked at from one side.

47. Here, you can see the hymen recessed back from the labia. I examined Gillian in the “frog-leg” position, with the hips bent and the legs splayed. In this position, the imaginary line between the outer surface of the labia is as close to the hymen as possible. In my experience, the distance from outer surface to hymen, even in this position, is at least 1 – 2 cm.

48. One example may help. I have examined many prepubertal girls after a “straddle injury”. That is, they fell astride a linear object such the bar of a bicycle. The bar strikes the pubic bone in front of the vagina and the soft tissues around the vagina, often causing tears or bruises. The distinguishing characteristic of most straddle injuries is the absence of injury to the hymen. This is because it is recessed within the vestibule to the distance that I have described.

49. Secondly, the hymen does not close off the entrance to the vagina. It has different shapes, but it always has a hole in it. Gillian had the usual shaped hymen for a girl of her age, in the shape of a crescent at the back and sides of the vaginal entrance. This is shown in Annexure B.

50. Although the hymen is fixed at the vaginal wall, the edges can move forward and backward to some extent, and it may fold on itself or back against the vaginal wall. It will almost certainly bow backwards before an approaching object before it tears.

51. Thirdly, the hymen is elastic. It is not flimsy like tissue paper. It will stretch. I have myself removed from the vagina of 4-year-old girl two coaxial cable adaptors, each with a diameter of 12 mm, approximately twice the apparent diameter of the hole in the hymen. They were 2.5 and 2.8 cm long respectively and were lying on top of each other across the upper vagina. There was no injury to the vaginal wall. I was able to remove these using a pair of forceps with significant stretching of the hymen, but no tear.

52. Finally, what will a child perceive when an object passes between her labia? It is impossible to scientifically correlate a child's perception of the depth of penetration with the actual depth of penetration. Given the anatomy I have just described, it is probable that a child will interpret the entry of an object between the labia as penetration, even if that object did not go far enough to cause permanent damage to the hymen. After all, what standard of comparison does a girl of this age have?

53. In conclusion, Gillian's genital examination was normal for age. This neither confirms nor refutes the allegation of sexual abuse.

I confirm the truth and accuracy of this statement. I make this statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Dated at Auckland this 5th day of December 2022