



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

HELP!

Lump sum ACC payments reintroduced, effective October 2001

New wave of false sexual allegations?

• "You can expect every loopy claim in the book to come forward. People's imaginations will really work overtime to qualify for that one" -
Murray McCully, National MP

• "The Labour Department appears to be against the move"

• Treasury, and Dr Brash is its head, worried "the move would lead to a significant increase in disputes and legal action [and] increasing costs"

Yet in November 2000 Accident Insurance Minister Dr Michael Cullen went ahead, announcing reintroduced lump sum payments for physical or mental injury. These include from 'a sexual abuse event that fits the description of a crime' and whether or not there is any corroboration of the claimed event. No conviction is required.

REMEMBER ...

ACC in 1991-1992 fielded about 2,500 claims for sexual abuse. In 1992-1993, 1993-1994, and 1994-1995, it had about 10,000 of them each year. Hundreds if not thousands of these were false. These included children's nourished stories or adults claiming 'recovered memories'. In 2000 the numbers were at 8000.

Starting from about 1984, men were falsely charged, and many were erroneously convicted and jailed, through false sex allegations, including false allegations of incest. Large numbers of families seeking help for false sexual allegations led in 1994 to the formation of COSA organisations in New Zealand, including the present organisation, to help the falsely accused and their families.

Dr Michael Cullen, who is Minister of Finance, as the Accident Minister said there would be a system to evaluate sexual abuse claims to ACC (Press 1/11/00 p3). ACC currently has 150 health providers under

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CYFS, courts, corrections, and police:

Mixed messages about abuse advocates: depends on who you are.

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The elephant model.

Items never seen in Christchurch's 'The Press':

scrutiny including some counsellors (Press, 22/1/01 p1).

LET'S HOPE THE EVALUATION SYSTEM IS A GREAT ONE, DR CULLEN AND DR BRASH!

COSA business

Our December barbeque was a small intimate success. Congratulations to the relatively new member who drove around the district for 3 hours to find the party! We hope the New Year brings some breakthroughs for him and all of our members and friends including those further afield, or in jail.

At a committee meeting in January the committee heard of 6 new cases. We started to make some arrangements to visit Nelson. We also decided to make a recommendation to a general meeting as to a name change.

Our email address is cosa@i4free.co.nz - so please write to us if you feel inclined. We are preparing a web site.

In our last Newsletter we responded to Jarrod Booker's article "Groups at odds over sex abuse therapy" in Christchurch's Star, where, purposely or not, he acted to divide us and COSA North. We give full credit to COSA North for the work they did and we agree on the work to be done. They say they closed their group when new contacts about false sex allegations related to RMT were low, and they "never said that RMT (or false accusations of sexual abuse) is over".

SEXUAL ABUSE SURVIVORS TRUST, and courses for it run by Isabella Cooper

One of our members noticed the following advertisement amongst the free Community Calendar notices in "The Press" last month (25/1/1):

Sexual abuse survivors

The Sexual Abuse Survivors Trust is offering two five-week courses for women starting Friday, February 9 with Isabella Cooper. They are: The nature

of abuse and how to recognise it in ourselves and others, 10.30am to noon, and What happens to hurt, 1pm to 2.30pm. Women may attend both courses. To enrol, phone the Monarch Centre ...

The advertisement worried her, so she decided to write to Isabella Cooper. She understood that SAST was at Monarch Counselling. She understood Monarch's Ali Cooper was the office manager.

The letter asked to be assured the courses would avoid diagnosing sexual abuse by 'symptoms'. It quoted sources that expressed disapproval of the idea, or described ethical practice (Royal College of Psychiatrists, and Canadian, US, Australian and NZ psychological or counsellors groups' statements/codes). It argued that if she taught symptoms can be used to 'diagnose sexual abuse', that could influence clients to believe they suffered particular sexual abuse when it was false, thus harming them.

Isabella is not Ali or at SAST or at Monarch. Isabella does contract work for Monarch working from Harley Chambers. Ali Cooper is someone else.

Isabella McConnell-Cooper wrote "I do not become involved in diagnosing sexual abuse by 'symptoms'...I am not facilitating courses on that subject at all". She wrote the abuse women wish to explore/come to terms with, by overcoming their passivity, is physical, emotional, psychological. The need for the course arose out of their distress about and fear of copying that abuse.

In conversation she explained that the subject 'recognising abuse' was about teaching women to recognise in their own behaviour what is abuse, as we don't always know. No-one reinforces that certain behaviour is abusive.

She reacted as if it was of no account that her courses were for people who assert they suffered sexual abuse, when particular assertions could be false. She said she has an agenda - may be creatively responding to sex allegations by not focussing on them? She

sympathised about false sex allegations. She professed not to know about the crèche case. She said Monarch is not focussed on sexual abuse either.

On crying wolf, and compensation needed - Christchurch 'Creche' case

The report on the investigation into the Christchurch Civic Childcare centre case is due soon, on 28 February 2001. Advocates who oppose compensation after a pardon for Peter Ellis say things like: "Victims don't get compensation. Why should he?" The Press put it like this: "If a person has been jailed wrongfully, there remains the victim of that crime" (22/12/00). But in the crèche case the people cried wolf when there was none. The key victims when people cry wolf are the Ellises of this world.

There will be no pleasing some people, misguided though they are. We can only hope that in the long run they will see the case for what it was: child-care centre hysteria and fantasy run amok.

If the children suffered abuse or sexual abuse back then, around 1991-92, it was not from anyone at the crèche. If some children - 9 or 10 years on - are disturbed, their parents and caregivers should look to them and theirs for why.

In the premises of the argument for compensation for Peter Ellis are that he didn't do the things he was alleged to have done, yet he was imprisoned and branded as if he had done them.

Unknowing members of society believed in the convictions because the courts implied they were true. If compensation is awarded they will feel justifiably grievously misled.

Christchurch would not be alone in that: the case is one of the multi-victim multi-offender (MVMO) cases internationally, where some, who believed in systematic and systemic child abuse, created manufactured allegations, and much of the public believed the accused people to be guilty, although later revelations might have caused them to waver again.

In cases overseas and here where innocence later became official, the public has had to come to grips with it. Even when investigations and published reports showed the falsity of crucial parts of MVMO stories in particular, some tried to maintain these cases were true. In one, the Broxtowe in the UK (starting 1988), attempts to suppress a report which described crucial problems about the stories along with alternative explanations for them, nearly succeeded, but, where all else failed, the Internet pulled it off. And careful reporting of locations at the McMartin Pre-school negated allegations made in this 1984 Los Angeles case, but failed to make a dent in the beliefs of a few diehards, as the 'Net still shows.

These cases had overtones and allegations in common with our own chimaeric Christchurch case. Where it was possible to confirm or negate things theorised in the crèche case (eg, certain tunnels, dead babies in a certain garden, Masons doing nasty things at a certain hall) they have been negated. If the mistakes and lies are not compellingly refuted in the public's mind by massive compensation the public is not sure of the message: it was all false.

The crèche enquiry reportedly has employed Dr Louise Sas, a bad omen: she is a child psychologist described as being able to 'interpret every fact and behaviour as evidence of abuse' (Globe and Mail, Canada, 2001).

Michael Novak, discussing Friedrich Hayek (economist-thinker 1889-1992), said justice is by definition social. It is when we carry out with others something for the good not just of the individual but for the city or group. For these, not just Ellis, we need some justice. A pardon and compensation to him would go some way toward it.

Look forward to a good read, whatever the justice system says: "the manuscript of Lynley Hood's latest, now titled A City Possessed, based on the Christchurch Civic crèche case", explaining what made the case possible "is the work that impressed me most this year" said Rosemarie Smith (Otago Daily Times 2/1/1 p 19).

FOCUS ON DNA

NZ Police Minister re DNA sampling:

'They're sending us the wrong samples'

"They're sending us the wrong samples - they're sampling the wrong people" growled George Hawkins, Minister of Police, on being interviewed over controversy about DNA samples and analysis (TV One news 6-7pm interview, 8/12/00).

Did he mean the police - police are sending wrong samples? Police would send away for analysis blood or saliva samples they took from people, and also crime scene samples.

Or did he mean that Environmental Science and Research (ESR), the agency that analyses DNA samples, was sending to the Police (a) analyses that were wrong? or (b) analyses for the wrong samples, perhaps samples the Police didn't want or need? Did he mean ESR were bungling something? Or was the implication that ESR were deciding what samples they accorded first priority and this was in conflict with the Police?

Or what?

He made what seem remarkable statements in the pre-Christmas period when the media briefly fed off the issue of DNA testing by forensic scientists.

What preceded the interview in which he said it were some unpopular ideas he floated, including that police recruits might pay for their training, and that they should cut back on cell-phone costs.

In a separate incident a police officer was allegedly beaten while on duty, alone and without a cell phone. The media of course made a meal of that. Subsequently the incident was reported as without evidence, according to a police spokesman, of the policeman having been beaten up after all. The event has not been explained.

There then were several items in the media from police representatives relating to DNA testing. The first was 'national police spokesman' Brian Neeson who said that police were hamstrung by delays in DNA tests of sample sent to ESR (Environmental Sciences and

Research, a Crown Research Institute, and an organisation of scientists). He said "Homicides and sexual assaults are harder to solve the longer the investigation takes. It is imperative that forensic advice be delivered as quickly as possible". 670 cases had been put on the back burner during a flood of high-priority cases. Det. Sup't Bill Bishop said "We've doubled the number of samples we've been sending ESR and that's what's compounded the problem". (Press 6/12/00 p3.)

The next day 'national crime manager' Det. Sup't Bill Bishop announced that police were considering funding a \$3 million forensic DNA laboratory exclusively for DNA testing to be run by ESR. He said ESR's heavy workload meant that it is taking 3 months on average for tests on routine DNA samples to be completed. ESR was working on 120 cases involving 3000 DNA samples for the police. There was a backlog of 670 cases of burglary or crimes without suspects, down from 900 (The Press 7/12/00).

During this time, Arie Geurson, an independent forensic consultant, formerly of ESR, was viewed on TV criticising DNA sampling in New Zealand and saying he doesn't trust it.

Perhaps it was no accident that all this activity was followed a week later by Justice Minister Phil Goff's announcement that Cabinet had agreed that David Dougherty, who served 3 years in prison for a rape he did not commit, will be paid a six-figure compensation sum (The Press 19/12/00 p3).

ESR refused to say it was sorry over the way its scientist Peta Stringer gave certain DNA evidence. QC Stuart Grieve said the effect of her evidence was that the jury could believe Dougherty was not excluded from being a suspect, and could even believe there was some evidence to support the view that he was included by the evidence as a suspect. ESR defended itself, but also said they had a major challenge ahead to ensure that when additional DNA results are provided, that the results and their interpretation are fully understood by all parties in the justice system (Sunday Star times 24/12/00).

COSA South had raised the subject of DNA testing, and problems, and that settling the Dougherty case was overdue, in our November Newsletter.

In January, the flurry around DNA testing continued. ESR, lobbying for more resources, said progress on the DNA database so far had been too slow and 150,000 samples were needed for our population. The database was said to be currently 14,000. There were to be talks between the Justice, Police and Crown Research Institute Ministers (Press 11/1/01.7).

The Press in an Editorial (15/1/01 p6) said DNA sampling of burglars was important because "burglary is a learning crime, from which offenders often move to more serious offending. Serial rapists, for instance, very often start as house thieves". It went on "The overwhelming reality is that innocent people have nothing to fear from DNA sampling" - well, they should not but a few have had notable trouble with it.

In late January, Kim Hill made pointed remarks about the Minister of Police's unavailability for comment on issues under his portfolio (Nine to noon, National Radio, 29/1/01).

In February it was announced that legislation allowing burglary suspects to be DNA tested was to be introduced. Also, mouth swabs would be allowed for taking DNA samples. An argument that the agency that held DNA reference samples should be separate from the agency that analysed crime scene samples was mooted.

Criminal Bar Association president Richard Earwaker and David Dougherty's lawyer Murray Gibson argued against increased DNA testing, or increased reliance on such testing, for various reasons. The former called DNA testing "still not a precise science". The latter said ESR was "already susceptible to errors" and that he was concerned burdening the agency with still more work would increase that risk. (Sunday Star Times 11/2/01 by Donna Chisholm).

Justice Minister Phil Goff seemed to call DNA evidence in the Dougherty case contaminated, when he said there had been ministerial in-

quiries into "two cases of cross-contamination of DNA samples". He said the ministerial inquiries (the other was possibly on Peter Howse's case) "had identified a number of issues and they were being worked through" (The Press 12/2/01 p3). Considering a different former ESR scientist, from in another section of the agency, has said ESR could find no reason at all at ESR for contamination of the sample in the Peter Howse case, the conclusion that might have to be drawn is that another party was responsible for cross-contamination.

The comment of this COSA South writer is that while some criticism of ESR is justified, some of it actually should be turned around and directed at (some) people, lawyers etc. QCs and others have made remarks on DNA that have scientists grinding their teeth in anger or anguish over misrepresented science. Part of all this is a science-law struggle.

NEW DNA RESULTS BRINGING COMPENSATION FOR DOUGHERTY, SLOWLY

In the week before Christmas, Cabinet agreed that an amount for compensation is to be decided for David Dougherty, to be calculated by April. His lawyer Murray Gibson said David was relieved rather than exhilarated. He had not stated a sum (Press 19/12/00 p3).

Mr Dougherty was convicted in 1993 of abducting and raping an 11-year old girl. In a retrial in April 1997 he was acquitted, on DNA evidence that someone other than him committed the offences (The Press, Editorial, 27/5/99).

There was then an enquiry, which "amounted to [yet] another trial" and took a year of police involvement, followed by appointment of independent QC Stuart Grieve to decide whether compensation was due. He had DNA retests done in Australia, and the complainant re-interviewed.

When Justice Minister Phil Goff announced the decision to pay compensation, he stressed 'probability', meaning the assessment of innocence used the balance of probabilities. This was a move away from the test used by

the Minister of Justice under National, Doug Graham, which was the stricter test of beyond reasonable doubt. The new trend would tend to increase the number of cases where compensation was applicable (Press 22/12/00 p 4).

DNA EVIDENCE SHOWS MEMORY UNRELIABLE: US CASES

An accuser identified the man as the man who tried to rape her, and so did another victim, a 71-year-old neighbour who was raped a month later. The man was convicted and had served 8 years of a 70-year sentence before DNA evidence proved he could not have committed either crime.

At least 76 men have been released from jail in the US since 1987 because DNA evidence proved their innocence. In the first 28 overturned by DNA evidence, eyewitness or victim testimony had been the most compelling evidence to the jury, behind the wrong conviction, a Justice Dept report said.

After this, Janet Reno, the US Attorney General, appointed a commission of psychologists, police officers, and lawyers to recommend ways to decrease the number of mistakes.

Eyewitness testimony played a major role in most of the convictions of the 76 men so it was a major cause of wrongful convictions, the article continued. One estimate was 0.5% or 5000 of the 1 million convictions a year in the US (Otago Daily Times 16/12/00 p H31).

One of the men was David Shawn Pope. DNA tests not available when Pope was sentenced in February 1986 proved he did not break into a woman's apartment and rape her at knifepoint. Her attacker, however, would not pay for the crime: he was a registered sex offender in prison but could not be charged with this crime because of the statute of limitations. "That man needs to be held accountable" said Pope. He said he survived the nearly 15 years in prison by shutting down emotionally and challenging himself intellectually (Sunday Star Times 11/2/01).

NEW ZEALAND CROWN AGENCY - ESR - CLARIFIES NATIONAL DNA DATABASE SAMPLING

Dr Keith Bedford Forensic Programme Manager at the Institute of Environmental Science and Research Ltd, after a request from us, sent us the following clarifications following our last Newsletter's item on DNA:

- A suspect in a case can give non-venous samples - often mouth swabs are used. These are not put onto the National DNA database, only blood samples are. Some suspects, eg, for murder, rape or wounding, but not burglary, can be ordered to give blood for DNA analysis for the National database.
- When samples destined for the National DNA database are taken, the donor can opt to have another sample taken for their own use, such as for independent analysis if he/she should wish.
- If ESR has sufficient sample left, sometimes a specimen goes to another lab for independent analysis.
- Samples for the National DNA database are barcoded and stored on the database under the barcode.
- DNA matches are expressed as how likely it is that the DNA profile of the accused is the source of the DNA profile in the sample, compared to how likely it is that some other random person is the source.

DNA AND DOWNS SYNDROME

Dr Keith Bedford gave the following response when questioned about a reader's case involving a DNA profile in relation to Downs syndrome, what is called a 'trisomy'.

ESR's form of DNA analysis is not the only form of analysis, and the comments below relate to the analytical techniques used at ESR.

A DNA profile is generated by analysing certain sections of the DNA. At each of

these sections of DNA we routinely see either 2 peaks or 1 peak. Where 2 peaks occur, the individual is said to be heterozygous (as a result of inheriting 2 different characteristics, usually 1 from each of their parents).

Alternatively, if only 1 peak is seen, the individual is said to be homozygous as they have inherited the same characteristic of DNA from their parents.

In Down's syndrome we have a disorder that is the result of what is called a trisomy, which means three copies of chromosome, specifically three copies of chromosome 21.

In a DNA profile of a sample from an individual with known Down's syndrome analysed under "the system in use at ESR", ESR would see either 1, 2 or 3 peaks depending on whether the parents of the individual were homozygous for the DNA characteristic at chromosome 21.

If there were 3 peaks, it would indicate 1 DNA characteristic from one parent and 2 different DNA characteristics from the other parent, and the occurrence of 3 peaks in a DNA profile is very easily recognised as a possible trisomy (Downs syndrome).

"The occurrence of only 1 or 2 peaks is less easy to detect in a trisomy ...".

The last statement on its own will not help to answer a question like: Does this DNA profile come from someone with Downs Syndrome or someone without it?

However, the scientist says s/he can observe other data, though exactly what isn't clear:

"... however there are usually other distinguishing features about the peaks which are suggestive of something unusual."

The scientist presumes by the phrasing that s/he will know that the sample is from a trisomy (Downs syndrome). But what if the question is, Is the person Downs or not?

The entire population or most of it will be heterozygous for one or another characteristic.

So 2 peaks in a profile is distinguishing of nothing. 2 peaks for the DNA characteristic at chromosome 21 seems nothing on its own either. The only question is whether those other features "suggestive of something unusual" are determinant for, or can rule out, Downs syndrome. The scientist has not finished answering the question.

Christchurch "Star" columnist Jarrod Booker climbed on a current bandwagon, writing, as Christmas approached, that women should watch out as "cases of drug-induced rape increase around the country" (20/12/00 p1). He should be wary because at this stage there have been no drug analyses pointing to this - none have been made public so far as we know.

Need for management responsibility re staff and client safety at Sunnyside Hospital, an institutional environment

The Director of Sunnyside Hospital Dr Alfred Dell'Ario in July 2000 requested an enquiry as a result of 4 incidents in the Acute Inpatient Unit at the hospital, which were said to have involved 'sexually inappropriate behaviour'.

Sunnyside, which is a hospital in the mental health division of Canterbury's health services, it seems was at the time relocating to a new site. It was at the time administered under Healthlink South, but on 1/1/1 came under the Canterbury District Health Board.

The report turns out to reflect some focus on unrelated gender issues but also theories of sex abuse such as are sometimes wound into false allegations. Following is a part-summary:

The four incidents were apparently "incidents of either alleged or actual heterosexual behaviour occurring between patients who were all being treated in the acute inpatient areas". Subsequent to each of the "alleged or actual" incidents, staff made full reviews and used the sexual assault policy.

The enquiry was meant to establish the circumstances of the incidents, and clinical and administrative issues and procedures relating to their management .

Going into the 'circumstances', the report described staff demarcation and rostering issues. It said care of patients on the ward was divided into case management done by the junior medical staff and "key work" done by nursing staff, and there appeared to be "a greater focus on the concept of case management as the key work system at the present time is not working well due to rostering difficulties [due to] ... a reasonably heavy reliance on using nurses from the casual pool".

Although "no specific components" in the incidents "required to be focused on individually", in each there was "a multiplicity of factors", the report went on. These included:

- That doctors were identified as case managers which "further devalued the roles of [ward] nurses".
- That there was a new system where each senior medical staff covered two wards instead of being allocated exclusively to one, which 'reinforced the focus on disempowering nursing staff'.
- That it was impossible, according to two patients' relatives, for the patients when they were severely ill to understand the 'nursing perspective' or 'concept' of boundaries. The concept was described as relating to 'the physical layout of the ward', where 'there should be 'clearly defined separate sleeping areas for males and females or where males may pass female sleeping areas without an awareness of staff or vice-versa'.
- That certain documentation was fragmented: no section of the patient file 'adequately focused on' risk pertaining to the management of 'gender safety'.

The report concluded there should be attention to factors such as ·unit design, ·funding for nurses, ·understanding that there was vulnerability to sexual assault when there was a past history of sexual abuse or neglect, ·patients having 'a right to choose the gender of their key-workers/care-managers', and ·hav-

ing women-only spaces within mixed wards, and patient education to explore sexuality.

Casual labour is a problem and gender sleeping-arrangements in mental hospitals would require care, but the report shows female-'gender'-focussed subgroups do put up excessive arguments in the name of 'gender' safety.

General care should be the issue for management. The report reflects a trend in the last 2-3 years, for management especially in schools and government departments to increasingly focus on staff and client safety. Protecting the safety of both is the trend to be commended.

INTERNATIONAL

"My Name has been Stained, but not my Honor or my Soul" - Perkins

The author of this statement, Bruce Perkins, has been making art from jail in Texas, where he resides through false sex allegations. His work "Texas Bluebonnet, State flower of Texas" showing barbed-wire outlining a map of Texas, the US flag in the background, and a cup of "Bluebonnet" flowers, expresses the sadness and extent of the problem.

He wrote, through an Internet page which we can't now locate, that even after more than 7 years in jail, the shock that registered on his mind the day he was falsely accused is no less.

A 1995 article by Eleanor Goldstein and Mark Pendergrast said of Perkins (at <http://www.webmarkets.com/~kyp/perkins.html>) "pictures of his grandchildren, painted from photos a few years old are among his most poignant: he was sentenced to 30 years for sexually abusing those grandchildren. This was despite a complete lack of evidence, except for contradictory, bizarre testimony of little children who 'may have been coerced by therapists, social workers, and police using pseudoscientific methods.'"

Bruce's wife Carol was grateful for the support of COSA South through their computer operator.

CASES AND ISSUES AROUND NZ

DUNEDIN

Issue of credibility says Judge: jury could not decide on indecency charges

Over 3 days last year, a jury heard the opposing sides in a case where a 58-year old former North Otago man stood charged, in the Dunedin courts, with indecent acts over 5 years; some of the charges were 'representative' (we think this means 'without dates or exact places').

Two women, the man's stepdaughter and eldest daughter, made the allegations. The mother said they weren't true; the man said they were rubbish. They were 'too elaborate to be made up' and there was no benefit to the girls to invent the charges, said the Crown (Robin Bates), but in the man's defence Anne Stevens outlined 14 points in the evidence which she said gave rise to reasonable doubt that the offences had occurred. Judge John McDonald said credibility was the issue and only 3 people knew the truth.

The jury could not reach a verdict. The man was remanded for the Crown to indicate whether it wanted a retrial (Otago Daily Times 29/11/00 p28, 30/11/00 p10, 2/12/00).

Daughter wouldn't formally disclose alleged 'rape': social worker did !

Father, a Dunedin ex-policeman, sues social worker and CYFS

The defendants, before Justice Young in the High Court in Dunedin, were social worker Mrs Mavis Turnbull and the Department of Social Welfare (now Child Youth and Family Services). The \$200,000 damages action by the girl's father, represented by Judith Ablett-Kerr QC with Chris Medlicott and Todd Stephenson, claimed the defendant's prosecution of the man for allegedly breaching a Family Court restraining order by raping his daughter was malicious, an abuse of process, and misuse of a public office.

The information, laid in June 1995 against a history of psychological disturbance, was dismissed a month later after an investigation

yielded no corroborative evidence and with subsequent allegations, it was claimed, effectively showed the girl invented the matters. The man nevertheless left the police because of humiliation and embarrassment and the effects on family relationships. In 1999 the daughter recanted her allegations against her father.

The social worker was over-involved with the man's daughter, the man's counsel said.

Social worker scrambles to explain

The social worker (counsel Chris Matheson and Christina Inglis of the Crown Law Office in Wellington) said that although she had become over-involved with the client, if she hadn't, the client could well have taken her own life.

She thought local police would not act on the breach she swore: she wouldn't have sworn it if she'd known they'd brought in Christchurch police (surely not relevant?).

She did not understand any of the steps she took as compromising her objectivity and professionalism. She had not known the girl had had a depressive psychotic condition and auditory hallucinations, and had believed the girl's allegations about being raped.

She said in answer to a question by Judge Young "it could be" that her previous certainty about the rape had changed to uncertainty. To Mrs Ablett-Kerr she said the reason for that was not a lack of corroborative evidence as that did not mean "something didn't occur", the doubt was "probably" from hearing in 1998 or 1999 that the girl had recanted.

Judge rebukes psychiatrist confirming woman's tale - "blindfolded in Merivale car park"

At one point when Mrs Turnbull was being cross-examined Justice Young questioned a psychiatrist's acceptance of the girl's story of being taken to Christchurch for an abortion, where she said her father led her blindfolded from Merivale car park to doctor's rooms.

In what amounted to a rebuke, he said this was a bit 'wacky' and noted the psychiatrist simply recorded and accepted the girl's description of the incident, commenting that it must have been traumatic rather than wondering whether it had really happened. Mrs Turnbull, who found the psychiatrist's report "helpful", said she had no reason to doubt it. Social workers came across situations very out of the ordinary, she said.

Damages settled to father

Counsel on the 7th day instead of continuing spent much of the day negotiating terms of settlement satisfactory to the plaintiff (Otago Daily Times, 14/12/00 p 18, 16/12/00 p 38).

CHRISTCHURCH/CANTERBURY

Memory confusions: twins-study at University of Canterbury

Disputed memories are the PhD study field for psychology student Mercedes Sheen, at the University of Canterbury. A twin herself, who disputes with the other twin, the circumstances of a non-controversial event that they do not share the same memory of, she sought twins interested in being part of the study.

Karam wants to initiate New Zealand "Innocence Project"

In the US, the Innocence Project has freed 65 inmates, largely as a result of new DNA evidence. Joe Karam publicised this in stating his aim of setting up a version of the project in New Zealand (Sunday Star Times 24/12/00 p A3). He said "Our justice system wants to ignore the fact that they [wrong verdicts] happen at all and don't want to make decisions which lessen the chance of them happening again". He said that there had to be a better system to deal with genuine wrongful convictions other than the drawn-out process David Dougherty had to go through and that David Bain, for whom he is fighting, is in the midst of.

Petitions over miscarriages of justice tended to be treated as aberrations without research

into the errors in witness evidence, police practice and scientific evidence, that may have contributed to them, he said. People interested in the Innocence Project can contact Karam at PO Box 58, Geraldine.

Christchurch City Council Children's Advocate backs Sexual Abuse Survivors Trust (SAST)

The COSA South member who decided to seek assurance that a course advertised by the Christchurch Sexual Abuse Survivors Trust would not try to 'diagnose' 'sexual abuse' by symptoms, wrote to Isabella Cooper as the primary recipient (see previous item this Newsletter), but sent a copy for response to Jonathan Fletcher, Director of Policy, Christchurch City Council. The reasoning behind this was that the Council lists SAST on the "Support Services" page of its "Parenting Programme and Support Services" at <http://www.ccc.govt.nz/Publications/ParentingGuide/SupportServices.asp>.

The Council replied by way of its Children's Advocate, Lyn Campbell. She had inquired about the matter, and gave a satisfactory explanation of it. The pertinent points she made included that the courses were not about sexual abuse and Isabella Cooper does not become involved in diagnosing sexual abuse by symptoms.

They included however the comment that SAST "has a recognised and proven record in the counselling area" and the conclusion from this that "Consequently it is a suitable organisation for inclusion in the CCC Parenting Programmes and Support Services Directory".

Looking at the Council's parenting site carefully you can see that the Trust is in a list separated from those which are to do with children's parenting as such.

The Trust seemed in December 1999 to be dealing with one or two of the former children out of the crèche case, who would now be about 14. They will still be children in the legal sense. We ask, can we reason that the Trust, as it is associated with courses (being

run by Isabella Cooper) that do “not target children”, is a Trust that does not target children, and that the Trust is no longer associated with ‘counselling’ any of those children or for that matter any other children?

WELLINGTON

Wellington Women’s Refuge: re-defining battered women

According to a report in November, there was now no such thing as Battered Women’s Syndrome (Tania Pouwhare, Women’s Refuge policy and research adviser, Evening Post 23/11/00). Not so many years ago it was advocated - Women’s Refuge included - who invented the term in the first place, to give an ‘explanation’ for why a woman in some instances, killed a former partner. The preferred term now is ‘battered woman’, ‘Syndrome’ had the connotations of being sick, which was incorrect Ms Pouwhare said. The collective’s national office ‘was looking at training police, Department of Work and Income, and Child Youth and Family Services staff so they understood battered women’.

Both concepts avoid pinning on the woman responsibility for what she did. Could that argument apply to both genders? Law worth having would not discriminate for women?

Police still dealing with complaint of malicious allegations against MP

‘Relatives [are] to be interviewed’, over allegedly malicious sex and drug allegations that the police found no evidence for, in the case of former Cabinet Minister for Maori Affairs Dover Samuels, said a newspaper report.

Detective Superintendent Larry Reid, from the office of Police Commissioner Rob Robinson, was due to interview Rodney Tregrethan and Beverley Rako. They are respectively an uncle and the mother of the girl supposedly complaining.

Labour Party president Mike Williams was to hold a meeting between Prime Minister Helen Clark and Mr Samuels in late January (The Press 19/12/00 p 7).

Further to the above, Mr Samuels with a daughter appeared on TV just prior to Christmas convincingly rebutting incest allegations. The girl supposed to be making the first set of allegations has not come to light in public.

CYFS inquires into itself after it bungles 10 yr old Kapiti Coast boy’s case

After a Kapiti Coast mother successfully used legal intervention to have her 10 yr old son returned to her, CYFS inquired into its own social worker practices. A social worker

- had the boy removed based on a psychiatrist’s report that assumed the boy’s father still lived with them when he had been gone 10 months,
- concluded that the father was a threat (arguable), and
- took no steps to learn of the boy’s extreme behavioural problems from his paediatrician, his school, or Special Education Services (SES).

Communication between parties and assessment and treatment services failed here.

AUCKLAND

Ex-juror, believing in innocence of man, pursues appeal after third trial

Six months after a man’s second trial in 1996 where the jury failed to reach a verdict over an accusation of rape, one of the dissenting jurors claims that he had proved conclusively to himself that he was right - the accused was innocent. The man, Khem Raju Samy, who the ex-juror has not met, was convicted of rape at a first trial in March 1995. Samy took the case to the Court of Appeal and he won the right to the second trial. There was a third trial in January 1997. He was again found guilty.

Samy’s lawyer Shane Cassidy filed a petition with the Governor General seeking referral to the Court of Appeal. He said it was sought on the grounds that new medical evidence proved Samy was physically unable to commit the rape in the manner described by the complainant. The victim claimed Samy stood on her legs while he undressed her and then

himself. Mr Cassidy said this was physically impossible. In addition, Samy had also recently had an operation on his left ankle. The operation was to remove two metal pins inserted after a car accident in which both ankles were broken. He was on medication for the pain and for transferred pain in his neck and back. It would have been impossible to overcome the pain threshold required to do that", Mr Cassidy reportedly said (The Press 22/11/00 p 10).

The lawyer seems to have shown the importance of doing your research and perhaps it should have been done well before this.

[Meanwhile, Attorney-General Margaret Wilson called for New Zealand to scrap its link with the Privy Council, traditionally our final appeal court. New Zealand law is best developed here, and the Privy Council agrees, she said (The Press 19/12/00 p7).]

'FRIENDS OF THE RAPE SURVIVOR'S FAMILY' 19-PAGE DOCUMENT, DEFAMATORY

The Sunday Star Times reported having a 19-page document anonymously delivered to them. Addressed in a nasty way to their writer Donna Chisholm, it contained material defaming Auckland man David Dougherty. The writers, calling themselves "Friends of the Rape Survivor's Family" showed the depths to which they would sink, when they proposed bizarre explanations about semen, and DNA results. With the latter the arguments flew in the face of two subsequent DNA tests that implicated someone else. The family of the girl Dougherty was accused of raping (over which he will now be compensated) served Dougherty with a trespass order last week. David Dougherty said he feels sad for the family "because something very wrong is going on there", a report said (24/12/00 A3). *More about the Dougherty case is in this issue.*

NATIONAL

Discussion paper on Health Professionals' Competency Assurance Bill

The NZ Psychological Society web site noted on 04/12/2000 that a Joint Working Party of representatives from the New Zealand Psychological Society, NZ College of Clinical Psychology and the Psychologists Board have prepared a submission on the Health Professionals' Competency Assurance Bill Discussion Paper for the Health Professionals' Competency Assurance Bill.

The HPCA Bill proposes to repeal the various existing health regulation statutes and replace them with a single overarching Act designed to protect the public from incompetent professional practice while taking into account the impact of government regulation on competition and consumer choice. It would provide for the continuation of separate, independent registering authorities for the different professions, or professionals could amalgamate registering authorities if they wished (see http://www.psychology.org.nz/news/20001204_submission.html).

CYFS, COURTS, CORRECTIONS, AND POLICE: NETWORKING AGAINST REAL ABUSE?

The Department of Corrections might automatically notify CYFS of all convicted child abusers before their release from prison. The two departments signed a protocol to prevent 'people who have been imprisoned for sexual or violent offences against children and who planned to rejoin their families after their release [from prison]' from 'repeating their crimes' (The Press 8/12/00 p 7). This begs the question, what about people convicted of offences they didn't do? Another report showed there were signs of networking cooperation between courts, corrections, police and CYFS (Press 3/2/1).

CYFS was to shed certain managers and undergo other restructuring, but the department's general manager of services delivery Ken Rand said he did not expect the reshuffle to result in significant job losses. (The Press 29/11/00).

Will this improve their dealings with people affected by imaginary cases?

Mixed messages about abuse advocates: depends on who you are

Rangi Whakaruru, who had been helping to front a child abuse prevention campaign along with TV presenter Liz Gunn, when found to have used physical punishment in his family (the degree is unclear), was made to withdraw. This was accompanied by acrimonious interview of Ms Gunn for not checking him and for suggesting to him that the matter be sorted out privately within the family.

While Womens Refuge continued to gain attention recently, its chief executive Merepeka Raukawa-Tait regularly fronting up when the media seek comment often after real and terrible cases of abuse, mainly physical abuse, Mrs Raukawa-Tait then herself admitted past abuse. It was 'psychological more than physical', and included 'a "whack across the face", smashing crockery, and kicking her foot through a window', she said ("Refuge chief admits dishing out abuse" Press 25/1/01 p1).

No media high-fliers have taken Mrs Raukawa-Tait to task for not fronting up about her past abuse, nor have there been calls that she be kicked out of her leadership role in Women's Refuge, in notable contrast to the treatment of Rangi Whakaruru.

Openness or privacy for the Family Court? Views split according to gender

A New Zealand Law Society advocate, Anita Chan, chairwoman of the law society's family law section, argued the opposite way to those women who outed Rangi Whakaruru when they said that his physical abuse should have been outed - public - when she argued for privacy rather than publicity in Family Court cases.

Her argument against opening up the court was "lifting the veil of confidentiality will undermine the ability of the court system to help resolve family disputes". "... [L]ack of privacy will deter many..."

Other groups argued the other way. Families Apart Require Equality spokesman Darryl Ward said opening up the court to public scrutiny would "reveal once and for all how New Zealand's family law system was the worst in the world, and would greatly swell the public's demand for a better system". And Fathering New Zealand advocate Darrell Carlin said "We are not interested in seeing names published. That kind of talk is just an attempt by those who oppose openness and press freedom to scare people such as the politicians we're asking to right this wrong. We want what is being said in the courts to be able to be published so that those lawyers and judges who are now free to engage in destructive practices can be watched and brought to book" (The Press 3/2/01).

The two groups' submissions revealed the very strong feelings of their constituencies.

ITEMS NEVER SEEN IN CHRISTCHURCH'S 'THE PRESS'!

Man smashes chair: Her Majesty's evicts him

An inmate falsely accused through historical sex accusations dreamt up by young men in cahoots, smashed a chair in the unit where he is incarcerated. He described himself as not bitter but sometimes feeling rage. He is to be 'evicted' to another unit.

Columnist implied not guilty man was guilty "we regret and unreservedly retract the implication" - The Press

Columnist Rosemary McLeod wrote in a recent piece in "The Press" (4/1/1 p4) about a fictional woman invited home by a man where they had sex. "You're in his Jacuzzi mumbling yes while the whiff of his dirty socks offers a warning you're powerless to act on", she wrote about the fictional case, going on, "Talk about a scene from hell." All very funny, but she referred to a real case: "A Wellington man found not guilty of such a rape just before Christmas ...".

By referring to 'a Wellington man' and saying in connection with the phrase that what happened was 'such a rape', she clearly said a particular man in the well-reported Wellington case had indeed raped.

He had just been found not guilty.

The woman in the court case had argued that the man made her compliant by a drug. Apparently no drug was actually found, or anyway no evidence for such was made apparent in the case.

"We regret and unreservedly retract the implication" - said The Press (never)

Please feel free to copy this newsletter, and pass items on to interested people, if for the purposes of COSA New Zealand, ie, to support people and families affected by false sex allegations.