

COSA

COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS



As we approach Christmas, our hearts and minds gain an extra focus on our families and friends - both past and present.

During such times we may be reflective towards ourselves, those close to us, and other people known or unknown to us.

Often an honesty and a vulnerability creep over us, which are otherwise submerged by distractions and convenience.

Deep down we usually know when we are doing o.k., or being unfair, hurtful or dishonest. Much courage may be needed to break free of such shackles. Religious tenets of love and forgiveness are innate fibres of our human fabric, as are fear, passion, and pain.



The spirit of Christmas, the manifestation of Christian beliefs and teachings, may be a helpful catalyst for any of us to behave rather better, and more generously than before, with someone, somewhere.

Its easy to be merry and happy in safe, comfortable places. Moving into uncomfortable spaces with warmth and forgiveness is a challenge worthy of the greatest respect and admiration.

For those people embroiled in the pain and dislocation of the type that COSA encounters, may you find some way of forgiving, letting go, and rebuilding relationships and lifestyle that were important to you, and previously seemed irretrievable.



Time does help heal wounds, but time full of bitterness and anger is a terrible waste. That waste we can well do without.

May Christmas bring warmth, forgiveness, reconciliation, and peace of mind to you all.

No. 11 DECEMBER 2001

A Christmas Reflection

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THE CHRISTCHURCH CIVIC CASE

The new book, *A City Possessed*: hot topic Lynley Hood in her 1 October 2001-released *A City Possessed* has drawn the attention of the thoughtful to the Christchurch Civic case and its background. In New Zealand, the book has been on the best-seller list several times since publication, and seems to be being widely read.

The Christchurch Public Library catalogue when visited recently listed 40 copies, and of those which were not shelf copies, all not only were out, but also were listed as being either 'Reserved', or as reserved and 'Full' as well.

Reviewers describe it as an exemplary, important study. The book reflects a monumental amount of work, and for her efforts, skill, and considerable achievement in writing it and having it published, after difficulties, Lynley Hood is to be congratulated. Peter Ellis said about it "the book looks like a royal commission of inquiry that cost Government nothing".

Justice Minister Phil Goff has said he's not going to read the book. Hard-line 'believers' presaged this sort of reaction when they said earlier that the case should be left alone and the children allowed to get on with their lives. Former Civic children who gave evidence etc. might handle the matter this way, but thinking adults are in an entirely different position.

It remains for some diehards - advocates, authorities, and institutions that have been resistant to changing their beliefs - to catch up. In this regard, Professor Mark Henaghan, Dean of Law at the University of Otago, says he is going to collect the reviews, especially those from professionals, and send them to Justice Minister Goff, with recommendations about what should be done.

Reviews of *A City Possessed: Christchurch Civic Creche Case; Child Abuse, Gender Politics and the Law* by Lynley Hood
(Longacre Press)

From Christchurch's The Press 3 Nov 2001, "Escape" section, 'Books', p 20:

Exposing the flaws

Review by Cynthia Hawes, Senior Lecturer in Law, University of Canterbury

In November 1991, while sitting in his bath, a three-year-old Christchurch boy made the now famous remark to his mother: "I don't like Peter's black penis." That statement was the beginning of the downfall of Peter Hugh McGregor Ellis, who was sentenced in 1993 to 10 years in prison for a number of sexual offences against children who had attended the Christchurch Civic Creche, where he had worked for more than five years. ...

[Ten years into the ensuing public controversy and the disquiet over the correctness of the verdicts] Lynley Hood's entry into the fray with her well-written and closely researched book is a brave stand for the application of objectivity and rationality, qualities which she considers to have been seriously lacking during the investigation and trial of Peter Ellis. She approaches her analysis from two points of view, the first being the broad social and historical background to the case, and the second being the close scrutiny of the course of events and procedures relating to the case itself.

The social and political atmosphere at the time made it inevitable, the author argues, that sooner or later someone would suffer the fate of Peter Ellis. A moral panic concerning sexual abuse of children, possibly with associated satanic rituals, had been well established in New Zealand during the two decades preceding the Peter Ellis case. A number of factors contributed to the widely held belief that such practices were widespread.

Significant among these was the extreme "all men are rapists" fringe of the feminist movement, which saw women and children as victims of the patriarchy and in consequence demonised men. The rise of the sexual abuse industry was a strong contributing factor. A wave of counsellors, social workers, and therapists with varying degrees of expertise promulgated specious statistics about sexual abuse. Although there were no recorded cases of satanic or ritual abuse, they encour-

aged the view, until it became axiomatic, that such practices existed throughout all sectors of society.

Fuel was added by literature and seminars provided by "experts", both from within New Zealand and overseas. As a result, parents and other agencies developed disproportionate and unrealistic concerns about child sexual abuse. The liberal provision of lump-sum payments by ACC to alleged sexual abuse victims also played a part.

All these ingredients found their way into the crucible that was Christchurch in 1991, and, inevitably and inexorably, the potent brew produced a result. Many of the parents were themselves involved in the sexual abuse industry and had discussed sexual abuse with their children and provided them with books on the subject. In this context, the likelihood of a complaint was, as the author describes it, "poised, like the hands on the Doomsday Clock, at a few minutes before midnight".

The Crown case was based upon information, or "disclosures", made by creche children. No child ever complained of sexual molestation of any kind by Peter Ellis while at the creche and no signs of injuries were observed by parents. It was only after the "black penis" comment had been made, and alarmed parents had discussed the matter among themselves and with their children, that formal interviews were undertaken.

Many of the children were subjected to repeated interviews despite their initially denying any wrongdoing by Peter Ellis. The description of interviewing techniques includes examples of the persistent and leading questioning which was employed. Disclosures took place amid widespread speculation and rumour which had established in the minds of the children that Peter Ellis was a bad man.

Four of his women colleagues were also charged as a result of this questioning process. By the time a preliminary hearing had determined that there was insufficient evidence to try them, they had suffered profoundly.

The author examines in detail the depositions

and trial of Peter Ellis, including the judge's pre-trial rulings and the presentation of the evidence, both of which she considers unfairly prejudiced Peter Ellis. The videotape interviews of the children had contained allegations which were inherently incredible or demonstrably false, involving such lurid features as fire, ovens, cages, axes, and killings. The charges laid excluded this improbable material and the jury saw little of it. Had these fantastic allegations been presented as a whole, the jury would have received a broader picture of the contaminated circumstances of the disclosures, and the evidence which was in fact presented would have been weakened.

It was not asserted at the trial that the children were liars, and Lynley Hood makes no such suggestion. Rather, her thesis is that the children, all of whom had been preschoolers while at the creche, had been interrogated months or years later by questioners intent on finding evil-doing by Peter Ellis; and they were thereby drawn into the area where fact and fiction became indistinguishable in their minds.

Lynley Hood looks behind the mantra of "believe the child" and accepts that the children may well have attempted to be truthful. However, the background of panic and the indoctrination of the children were such that it was inevitable that they would ultimately say what the questioner wanted to hear.

Lynley Hood's book is detailed, scholarly, and well researched. For those readers who have harboured doubts about the Ellis case, the book will provide further cogent support for their opinions; for others it may well induce revision of previously held views.

The book will perhaps provide impetus for the undertaking of political action to right the apparent wrong done to Peter Ellis. In matters involving human judgment, perfection is unattainable and mistakes are inevitable.

However, it is an embarrassment for the legal profession that it has taken the efforts of a person who is not one of them to examine and expose the flaws of the Peter Ellis case in such a book. Lynley Hood is to be congratulated.

Mike Behrens QC in the Manawatu's *Evening Standard* (Palmerston North, 19/10/01 p 14) gave a very favourable review to *A City Possessed*, saying that Hood showed "the country had been caught by ritual abuse panic". He said he was devastated by the book, which:

... certainly laid waste law makers, sexual abuse professionals, child protection workers, policemen, lawyers, judges, parents and any image we might have of ourselves as a thinking, caring culture immune from nonsense.

He wrote:

[Peter Ellis's] 10-year sentence for crimes against children has finished but still the law writhes and wrestles with the problem of his innocence. The law has finished with his four co-workers, who, for a comparatively short time stood in the dock too, before being condemned by, our version of "not proven" and punished accordingly with the loss of just about everything, including for one, a life.

He emphasizes Hood's logic and scholarship:

... if anyone picks up her book expecting to find emotional force for the view that the incidence of child abuse is exaggerated or even invented they will be confounded. Her colours are on the mast for all to see but the nails are driven in with logic and scholarship.

In one place he scoped the problem thus:

A jury, 8 judges ... and a ministerial inquiry ... have considered a case against Ellis [but] ... [s]ome bizarre legal rulings have ensured the case about him has never been examined. Those who believe the adversarial system is the bee's knees must be discomforted by the explanation of how it was the jury did not see all the evidential tapes made by the child complainants ...

Ian Freckelton, a Barrister, of Melbourne, reviewed the book in almost entirely very favourable terms in *The New Zealand Law*

Journal of October 2001 (pp 359-361). His final paragraph is as follows:

Hood's contribution to understanding of the complexities of investigation into sexual abuse, in particular ritual sexual abuse allegations, is substantial. *A City Possessed* is a gripping and controversial analysis of a legal and social phenomenon that has the potential to confront all of us. The challenge left to us is what can be done to ensure that the errors made and the human trauma caused by the Christchurch Creche controversy will not be repeated. *A City Possessed* should be compulsory reading for lawyers in the criminal and family law areas, child protection workers and mental health professionals. It is likely also to be devoured within the general community still trying to come to grips with the legacy of a decade of headlines about Ellis and the Christchurch Creche. Hood's courage in robustly presenting her version of the tale and in seeking to learn from it should inspire all of us to reflect soberly and thoughtfully about how child protection, criminal investigation and legal procedures can be improved. Hard cases, researchers' persistence and independence, and difficult issues provide opportunities which should not be lost.

Lauren Quaintance had a long report on Hood and the book in the 'November' issue of Auckland-produced magazine *North & South* (Issue 188, 15/10/01, pp 48-59: "The Lonely Journey Of Lynley Hood").

Quaintance's piece was a study of Hood based around the processes and people Hood encountered in the writing of *A City Possessed*. Quaintance started by saying:

It's over eight years since Dunedin writer Lynley Hood began a book on the Christchurch Civic Creche sexual abuse case. During that time she's been accused of keeping an innocent man in prison for personal gain, threatened with jail by the Court of Appeal

and fallen out with her original publishers. Meanwhile, doubters said her 230,000-word magnum opus published this month by plucky Longacre Press would never make it to bookshop shelves.

Further on, she wrote:

For someone who has never sought - indeed has for the most part successfully discouraged - a public profile beyond her writing it has been a remarkable journey. It has sorely tested her convictions, her friendships and her bank balance, but it is also much more than a story about the rights or wrongs of Peter Ellis' conviction: it is likely to be one of the greatest contributions to this country's social history.

She remarks on Hood's demeanour:

Because her topic is so divisive and she has jealously - perhaps obsessively - guarded the results of her research, Hood and her dental professor husband Jim have had no social life to speak of since she began researching the creche case in earnest in mid-1993. Because even her most valued friends pressed her to discuss what her book would reveal she virtually "stopped contact" with them. As a result, the couple's social outings have been extremely rare and, for Lynley at least, very superficial.

Dr Jim Hefford reviewed *A City Possessed* in New Zealand GP, (31/10/01 p 29), in "Modern-day witch-hunters". He put it that Lynley Hood has done the work that has for so long been sorely needed, and he has strong words for sections of counselors and doctors:

Anyone reading this book would have to agree there remains no further need for any new examination of the Peter Ellis case. Hood, a scientist, has done it for them - exhaustively over seven years - with the result compressed into these 600 pages.

Her book is a devastating indictment of the virtual reality rituals of the court-

room, and of significant sections of the counsellors and doctors involved in the sexual abuse field.

He remarked, in conclusion:

Recently, I attended a talk by Hood at the School of Psychology at Victoria University. The lawyers present discussed the scandalous inadequacies of the Appeal Court and review systems. Judges are appointed for life and there is no peer review or quality assurance. And, it seems, it would cost the government millions if a significant number of judgments were overturned.

Hood wondered if the process of reform might start by setting up something like the South African Truth and Reconciliation Commission at which the falsely convicted might present their case and, if it were justified, obtain acknowledgement and perhaps apology but not financial compensation.

Sandra Carson in *The Marlborough Express* 30/11/2001 p 9, Book Reviews wrote in review of Hood's book:

The trial of Peter Ellis is followed in careful, but never boring or salacious, detail. Lynley Hood is a careful and unemotive researcher. She sets out the huge volume of data in a very readable and clearly understood manner. When you have read her account of the trial you can have no doubt what the outcome should have been, and you have a very clear understanding of why it happened as it did.

David Riddell in the *Waikato Times*, 13/10/01 p 9, Book Reviews, summarized:

There can be no reasonable doubt that Peter Ellis is innocent of the crimes for which he was convicted. More than that, there never were any crimes. That he should have been through a trial, two appeals and a ministerial commission of inquiry is a terrible indictment of this country's legal system. To those unfamiliar with the case (or too close to see the wood for the trees) the alternative, that Ellis is guilty, may seem

more plausible and reassuring. But Hood's meticulous chronological analysis of events makes that position untenable, and clearly sets out the steps by which a single, cryptic remark from a 3-year-old boy escalated into a maelstrom which engulfed dozens of families, cost millions of dollars, destroyed several careers and put the innocent behind bars. This is a book to have you constantly shaking your head in disbelief, yet the exhaustive standard of research (the reference list runs to 40 pages) should leave no doubt of its basic truth.

Bernard Robertson in the Evening News, Wellington 29/10/01 in 'Book Reviews' gave these views of *A City Possessed*:

Hood tells this story as dispassionately as is possible in the circumstances. She sets out matters in such an even-handed manner that after reading about the trial one feels that the conviction in respect of one child was probably merited. But this was the same child who subsequently made a full retraction with the result that the Court of Appeal quashed the convictions. The first Court of Appeal inquiry examined only some of the witnesses' evidence and concluded that it was reliable. But being only a partial review, it was not sufficient to come to that conclusion. Even extracts of evidence, however, can show that a witness was confused, confusing and self-contradictory, and Hood provides enough such extracts to show that the witnesses in this case were all these things. ...

[The book] raises questions about our legal system which must be answered.

Penny Pepperell in *The Capital Letter*, A weekly review of administration, legislation & law, (24 TCL 42 (1128), 23/10/01, remarked in her review of *A City Possessed*:

The stand out feature ... is not her conclusion that after eight years of "dredg-

ing through the mire" she "found no evidence of illegality by anyone accused in this case". Rather, it is the way the book challenges the reader to examine how their opinion of this case (and everyone it seems has one) may have been moulded by the social belief structures of the day rather than the facts. Even those in the sceptic category who found the evidence unconvincing (apparently including many senior members of the legal profession) have no reason for smugness. For this is not only a story of a moral panic but is a story of prejudices, rivalries, empire building and the protection of vested interests throughout the entire criminal justice system. In these questioning times, particularly since last month's terrorist attacks in the United States the message is not merely discomfoting, it is potentially destabilizing. Only someone outside the justice system could have delivered it.

Reporter **Martin van Beynen** of *The Press* (Christchurch), who followed the Civic case at most of the depositions and all of the trial, and who had other work published on the case, wrote an extended piece soon after the book came out. We acknowledge that he has long held that none of the abuses alleged at the Civic, even happened (The Press 29/9/01 WE 1-2).

New Zealand background: Telethon 1988

If you're old enough, you'll remember when the TV 'Telethon' event that was run in New Zealand in 1988 had the focus of 'Reducing the level of violence' in the community ...

One of the advertisements used in the build-up before the 1988 marathon drive for funds for a worthy cause - which is what a Telethon was - used the introduction "One of these children will be scarred for life." Apparently, according to Lynley Hood, the advertisement carried on with the statement that one in four girls would be sexually abused before they

turn 18, half of them by their father (see *A City Possessed* pp. 66-67); in contrast, Hood noted, incest convictions nationwide for the previous year had totalled 19. Earlier in the same chapter (2.II), Hood had explained the origin of the inaccurate "one-in-four" 'statistic' and the inaccuracy of the statement about fathers (on p. 53).

THE CIVIC CASE: 'WHERE THE SILENCES ARE MOST EVIDENT'

Joyce Gibson of Auckland won the *Sunday Star Times* best letter of the week competition, and a Waterman pen, when she summarised where the silences are most evident in relation to **the Civic case** since the publication of Lynley Hood's book (SST 11/11/01). She wrote:

R G Hayward finds it strange that there has been little comment on Lynley Hood's book *A City Possessed* from police, social workers or complainant parents. One other group should be added to that list, Doctors for Sexual Abuse Care.

I find it incomprehensible that DSAC could have been so gullible as to swallow advice from a now discredited paediatrician from the United States.

According to Hood's book, the DSAC Manual for the medical management of child sexual abuse was based on the work of Dr Astrid Heger, who was found to have mis-diagnosed child sexual abuse on a massive scale.

The book goes on: "Doctors were told to avoid statements like 'the examination was normal' or 'no evidence of sexual abuse exists'. Instead, the phrase 'this examination is consistent with the allegation of sexual abuse' was recommended.

To mislead the public and the justice system in this way is appalling. Some parents have been led to believe their children have been sexually abused

based on spurious medical statements.

It is no wonder DSAC has been very quiet over *A City Possessed*. What they have condoned is against the principle which forms the basis of the Hippocratic oath - first do no harm.

So, the silences are from police, social workers, complainant parents, DSAC,

The silence is DEAFENING

RELATED NEWS FROM LATE 2001

US visitor from 'Innocence Project North West' urges reform within the legal system, to protect the innocent

An event with a bearing on the Civic case perhaps by no coincidence took place in Christchurch a few days after the release of Lynley Hood's book *A City Possessed*.

This event was the New Zealand Law Conference in Christchurch held on 4-8 October, and in particular a paper by Law Professor Jacqueline McMurtrie on the Wenatchee cases.

Professor McMurtrie is Director of the Criminal Law Clinic at the University of Washington School of Law and involved with the Innocence Project for the region, IPNW (Innocence Project North West).

This IPNW, as for other IP initiatives across the US, will work with a person falsely convicted - if s/he meets its criteria - including with people accused in false sex allegations.

Professor McMurtrie's paper on the Wenatchee, Washington cases, which involved allegations of sex abuse against 60 people involving more than 40 children, came out of the IPNW's work with individuals accused in these cases. A number have won large lawsuits against authorities, arising out of the falsity of the allegations against those individuals.

Professor McMurtrie connected the Wenatchee case to Christchurch's Civic case even while it was very much on the public's mind again in the wake of Hood's book.

A report in *The Press* said the non-profit IPNW comprised volunteer law professors, students, and lawyers.

Professor McMurtrie said in an interview with the reporter that amongst the similarities between the Wenatchee cases and the Civic were:

... repetitive interviewing of children, interviewers predisposed to finding abuse, and allegations "growing from something relatively minor".

The item showed Professor McMurtrie delivering her paper "Justice - a cautionary tale - The Wenatchee Cases" to the nearly full conference-session auditorium. Behind her appeared to be a projection screen showing a slide depicting some of the innocent accused.

The report said Professor McMurtrie urged "reform within the legal system to guard against conviction of the innocent" (*The Press*, 6/10/01, p 4; 'Expert lays down law on abuse cases' by Ryan Keen).

COSA Advisory Board member Elizabeth Loftus is Adjunct Professor of Law at the University of Washington, the same university as Jacqueline McMurtrie, where Loftus is also Professor of Psychology.

Joe Karam and the visit of Rubin 'Hurricane' Carter to New Zealand

Joe Karam was also in the news in September, over an 'Innocence Project'-like initiative, when he hosted Rubin "Hurricane" Carter in relation to the 'Free David Bain' project. The media seemed to be 'raring to have a go' at him regarding this initiative: Rosemary McLeod, in a piece that appeared to reek of preparation and to be trying to be especially withering, obsessed that Karam was obsessed about Bain (*Press* 20/9/01 p 1,4).

FALSE SEXUAL ALLEGATIONS-RELATED EVENTS IN NEW ZEALAND COURTS

Acquittal on sex charges (Hamilton)

The *Press* on 17/9/01 p 11 reported the case of a 44-year old martial arts coach who in January was set up by 3 girls aged 14, 15, and 16, who offered him group sex. But they

later admitted what they had planned was to rob him; and in fact they beat him up.

The three girls then made allegations against him to the police of indecent assault and committing an indecent act.

The Hamilton District Court was told the girls had already been dealt with by the courts for their offending.

The man was acquitted of the charges.

Reparation ordered after false rape claim

In the Christchurch Court, Judge Bisphan convicted a young woman over a false rape claim, and ordered her to come up for sentence within a year if called on, and to pay reparation of \$1356. Although the woman had made a false statement involving a false rape complaint, the judge decided to take a lenient line, 'even though the police had been put to some inconvenience' (*Press* 20/10/01 p 14).

Woman faces arrest for failing to appear

A woman who faced charges that she "conspired...to prosecute [a man] for the offence of indecency with a girl under 12, knowing that person to be innocent thereof", and "threatening by implication," failed to appear in court for a depositions hearing before two Justices of the Peace (*The Press* 13/9/01).

The charges, made via a private prosecution by a former friend, related to making an accusation of sexual misconduct against the man, with intent to gain property and effects belonging to the girl.

The newspaper report said that the woman, who was represented, is now under threat of arrest for failing to appear.

An interaction between an Internet user and the COSA New Zealand Inc. web site

We have noted that someone searched the web using the words: "new zealand older sex shows+free" and "schoolgirl videos rape" and that these both reported that our site was a fit. Of course our site - with our newsletters - has these words but not in that order and so not with the connotations of the strings used

in the searches. If there is anything twisted in this, it is the mind of the person searching, not us.

“VICTIM” SUPPORT

Victim Support Conference

Christchurch recently hosted a weekend conference for New Zealand’s Victim Support groups, just a few weeks after the release of Lynley Hood’s book.

According to Victim Support’s director Steve Caldwell there are 67 separately incorporated groups around New Zealand (Star 19/10/01 p B11).

Victim Support: Conference speaker

The featured speaker for Victim Support’s conference was Amsterdam social psychology professor, Frans Willem Winkel, who was described as a Victimologist.

COSA’s ‘reporter’ politely asked by email for an indication of his interest areas, but although he responded once he did not clarify these, despite a follow-up query.

The reporter in this follow-up asked him directly by email whether his interest areas took into account self-styled victims of sexual abuse who were really not; children who were victims but by virtue of their mis-diagnosis as having been sexually abused; and innocent accused people in these or any cases who were victims of another kind. Unfortunately he has not replied.

Dr Winkel had previously chaired a session at the 7th European Conference on Psychology and Law in September 1997, according to a report in ‘The Victimologist’ (vol 1, 2). The session was “Coping with negative life events.”

This meant potentially that he could be interested in the healing of trauma, whether its cause was iatrogenic (where the trauma is the result of faulty treatment) or external.

As there were no press reports about what Professor Winkel said, his interests and orientation remain a mystery unless and until something happens to clarify them.

Problems for Victim Support

Director Steve Caldwell said a few days after the conference that Victim Support was not in crisis but they had some problems.

The problems were low funding - they’d asked for \$3.6 million most recently but had been awarded less than half of that - and, linked to that, rivalry for the available funding (Citizen Today 17/10/01 p 5).

‘... Victim Support, a voluntary sexual abuse support group’, says case report

An Internet magazine called ‘General Practitioner’ contained the decision of the Health and Disability Commission regarding Patient A in ‘Report on opinion - case 98HDC20422’. The man made a formal complaint about a doctor who treated him, alleging that the examination the doctor performed (on 8 October 1998) was sexualized. The complaint, which was rejected, contained the following about events that occurred later that month:

Several days after making his statement to Police [and the Health and Disability Commission], Mr A was contacted by phone by Victim Support, a voluntary sexual abuse support group. The caller from Victim Support gave Mr A the name and contact details of a consulting psychologist, Mr D.

The point is that Victim Support was named - and it acted - as a sexual abuse support group, even arranging a psychologist, before the status of Patient A as a victim or non-victim had been verified. It was presumptuous.

Baloney detection. It’s not always easy to tell real science from its phony imitators, but Michael Shermer lists some useful tools at <http://www.sciam.com/2001/1101issue/1101skeptical.html> and <http://www.sciam.com/2001/1201issue/1201skeptical.html>. These are short and easy reading.

MENTAL HEALTH ISSUES

Inquiry over Mark Burton case

Trevor Burton is hoping disciplinary action will be taken against individual practitioners as a

result of the inquiry by Health and Disability Commissioner Ron Paterson into the Southland District Health Board's treatment of his son Mark Burton.

Mark, a paranoid schizophrenic, in March this year had stabbed his mother to death the day after he was formally discharged from the mental health unit of Southland Hospital. In the few days before this happened Mark's father Trevor had given those authorities evidence that Mark posed a danger, and on this basis asked them to hold Mark in care, or closely supervise him. Neither happened.

Trevor Burton hoped the current inquiry would name names, to put the medical professionals and doctors on their mettle. He asked what else would make them realize that in future if they didn't act they were going to be held accountable. One previous report on Mark's treatment, by consultant psychiatrist Bridget Taumoepeau, had avoided it. (The Press 5/10/01).

Advocacy for psychiatrically-impaired

David Tranter, speaking on behalf of the Seaview Hospital Action Group in Greymouth, has pointed out this year that the so-called evidence cited by government to conclude that psychiatric hospital closures and community placement had been successful, is a sham ("Evidence a sham, says watchdog" by Peter Christian; The Press).

The Action group had just released an 18-page report about the de-institutionalisation process and closures of psychiatric hospitals, including Seaview. Before forming its report, the group had several times requested to see the "massive worldwide evidence" that the Health Funding Authority cited for their success claim. The HFA eventually said, Mr Tranter claimed, that there was none, and referred him to the Director General of Health.

He was then provided with 300 pages of material. Following perusal of the papers, Mr Tranter said not only was the evidence at least 14 years old, it also presented a very negative picture of the de-institutionalisation process.

David Tranter had previously spoken up on behalf of the unemployed as a representative of the Unemployed and workers' rights centre at Omoto Valley on the West Coast: this was over the focus on, and the actions of, ex-WINZ boss Christine Rankin. She was being taken to task for her expensive management practices and style. He said all this meant the unemployed people on the other end of the spectrum who were hurting, were being ignored.

CORRECTIONS MINISTER PRAISES PSYCHOLOGICAL SERVICES

Corrections Minister Matt Robson praised the Psychological Services at its conference in Rotorua (Media Statement, 16 Oct 2001), saying that because of their work, people were going about their daily lives who could have been victims of crime but were not.

He praised Kia Marama for its work with sex offenders and its targeted approach.

He said he didn't want psychologists to take the blame when something went wrong, or probation officers either.

He also asked for support for what he called 'his early intervention initiatives'.

Accountability ?

The minister's statement does not suggest anything about just how responsibility or accountability **can** be pinpointed and forced into the system, and it rejects one likely place, the actions of individuals.

Perhaps the Burton inquiry will make links between aspects of some clients' behaviours and the people upon whom those behaviours might impact, so that the safety of all of those parties is considered.

Perhaps the representations of advocates, including a person like David Tranter, could be utilized, to draw some new conclusions.

New ways of responding could involve new sanctioned procedures, involving such things as standards and guidelines for approaches and assessments, that individual practitioners must follow. This would move managed care towards some improved solutions.

The result would be to put in place effectively, a combined responsibility, involving both management as a whole and staff as individuals. They would be accountable not only for their clients but also for people in their clients' social atoms.

Snippets of other New Zealand and COSA news

Workplace re-design: confessional doors altered for staff-parishioner safety

The Civic Childcare Centre [crèche] had an open-plan design (as Frank Haden commented again in Sunday Star Times, 18/10/01 p C6) to minimise the risk of sex-abuse allegations, and for staff and client safety.

Now the Catholic Church has responded in a similar way over the same concerns: it has made changes in its confessional design. A prominent item featured in The Press on 22 October this year said that to minimise the risk of sexual abuse or even false but un-defendable allegations of it "The Catholic Church is re-thinking the design of its traditional confessional box".

It showed Father Simon Eccleton with a glass-panelled wooden door recently installed in the reconciliation room at St Gregory's of Bishopdale.

Advisor's daughter at WTC on Sept 11

A daughter of Denis Dutton, one of our Advisory Board members, was at the site of the World Trade Centre when it was attacked on 11 September. She was underneath, in the subway.

When the train had stopped she had got off. She heard people screaming, saw the Centre in a ball of flame, and ran off. The experience was nightmarish, she said (The Press, afternoon edition of 12/9/01, p 6).

We extend our good wishes to Denis and the family after this much-too-close encounter for their loved family member.

FAIR Centre (at Barnados)

COSA recently supplied our updated details to The Fair Centre, which comes under the umbrella of Barnados. FAIR stands for Family Advocacy and Information Resource. Barnados and FAIR are now in a position to direct to us people who report to them that they are affected by false sexual allegations.

FAIR Centre is at 85-87 Ghuznee St, Wellington, PO Box 6434, email Fair.centre@barnados.org.nz, and phone 0800 222 345.

Note: We are also on the database of the New Zealand Citizens Advice Bureau offices. Their locations are listed in the White Pages of telephone books under "C" ie, under Citizens Advice Bureau.

COSA records

COSA New Zealand Inc., in Christchurch, is beginning to think about recording how much case and contact work it does.

We are intending to make a base record for each new contact, for this purpose.

We think we will record some brief details of the person's story.

In 2001, one committee member has noted some 23 active 'cases' of sexual allegations asserted to be false, directed either at the person contacting COSA, or directed at a friend of the person contacting COSA. This number represents a proportion of all the cases COSA has been working alongside, during the year.

'LEGAL' NOTEBOOK

"Convincingness"

The "convincingness" of a witness's story of sexual abuse comes from their belief not the truth. The person's belief by the time they're in court can be complete, even if it didn't happen. This occurs through such things as their rerunning of their story in their own minds until it is ingrained, and from social reinforcement or validation.

This means that sounding convincing and so being believable make what sounds like the truth but isn't, hard to refute, especially if, with the passage of time, evidence to the contrary is lost and can't be pinpointed.

Judges who remark even after juries' guilty verdicts that they're convinced the defendant is guilty because of the convincingness with which complainants gave their testimony, are on shaky ground.

In the Civic/Peter Ellis case the oldest, most believable witness, whom Lynley Hood called Zelda Cypress, retracted, and clearly had not been abused by Peter Ellis or anyone else at the creche.

However, she had previously been seen as the child who was most convincing.

Judge criticised interviewing style

In a recent Christchurch High Court case involving the prosecution of a man over sexual abuse charges, the Judge in summing up criticized the detective for his accusatory or aggressive interviewing style when he first conveyed the accusers' complaints to the accused.

The Judge said that that style would not get the co-operation of the accused.

The accused had in fact said little more than that he didn't do it, and the judge implied the questioning style had been responsible for this and so it was an unhelpful mode/style.

Judge sidelines the question of "why would they make it up?"

A judge remarked that the Crown counsel in his closing address had made reference to the question of why accusers would say that the alleged abuse to them had been perpetrated on them [by the accused], if this had not happened.

(A few tens of reasons for such were given in last month's newsletter, not the least being socio-cultural approval.)

The Crown has often used this kind of remark to imply or suggest to the jury that there is no

reason why accuser/s would make up their story/ies. The Judge said that if the jury felt it might make an inference from the Crown's suggestive question, if they did they were not to use it, because it was irrelevant.

Law firm touts for victims

A Christchurch law firm was reported as intending to take up the cudgel for sexual abuse victims who were not being paid the lump-sums they were entitled to, according to Christchurch's *Citizen Today*.

COSA has not seen any announcement that lump sums for sensitive claims have actually been re-instituted [this statement was true as of December 2001; shortly afterwards (in the week beginning 7 January 2002) it became clear that lump sums are back. This will be covered in the next issue of COSA's newsletter].

Lump sums for sensitive claims were *pre-saged* by Accident Insurance Minister Michael Cullen in November 2000 (see for example page 1 of our Newsletter Issue No. 8, February 2001). By late November 2001, the amounts available for physical injuries were announced but there was no sign of amounts for sensitive claims.

Anyway, the firm [later identified as Wakefield Associates of Christchurch] was reported as if it was asking for ¼ of any lump sum that they won for their claimants, plus another cost. They had distributed 60,000 flyers in Gisborne and Taranaki.

ACC spokeswoman Kathryn Griffiths pooh-pooed the affair as a money-making exercise. She said the Injury Prevention, Rehabilitation and Compensation Act would come into effect on 1 April 2002.

She said that the firms were scouting for business when there was no need, as all people had to do to get the compensation, if they were entitled to it, was to ask. ("Abuse victims 'miss out'" by Nyia Strachan; *Citizen Today* 13/10/01 p 7).

Justice minister still out over juries

Minister of Justice Phil Goff said in February (The Press 8/02/01 p 5) that changes were in the wind for juries following a then-recent Law Commission report.

The proposed changes were, for jury cases: minority verdicts (in convictions and acquittals, and even for murder cases), trial transcripts being available to jurors, and a minimum of four hours considering the evidence and verdict. Along with this, the jury would not divulge whether the verdict was minority or not.

In a different vein, he said it was possible that complex cases would be heard by a judge alone, with no jury option.

He linked this proposal to cases both where arguments could be made that otherwise the accused would not receive a fair trial, and where trials would be longer than 30 days.

Christchurch juries (or some) have recently been using trial transcripts.

PRIVY COUNCIL

This section is about "Privy Council" matters but also about the Court of Appeal, as the latter would be the last resort if the Privy Council was abandoned, as is currently being considered

Privy Council is considering NZ cases

The Privy Council appears to be in the midst of considering 13 New Zealand cases, although their passage doesn't seem to have received any publicity.

The details of most claims were left unexplained in an article in The Press earlier this year (23/2/01 p9), except for Malcolm Rewa, who was convicted of murder.

However, COSA knows of one person who about two years ago was in the throes of preparing to take their case to the Privy Council.

An appeal to the Privy Council from Ellis or about the Civic case is on the cards, too.

Privy Council is considering NZ Court of Appeal processes

The same report as the above said that one of the claims currently before the Privy Council is to the effect that Court of Appeal procedures in New Zealand are a sham, for failing to decide cases on anything more than paperwork. This application has won a full hearing of the Privy Council.

Appeal Court: minor change ...

Meanwhile (according to the same report), the government administration select committee reported on the problem that appeals were considered simply on the basis of paperwork if the appellants were refused legal aid for their appeals.

They simply recommended that appellants have a chance of a personal hearing.

Scrabbling over the Privy Council: 'nationalism'?

The same report (again) canvassed some of the issues at stake around the government's possible intention to scrap the Privy Council.

The report said that Tony Ellis, a lawyer for the 'Privy Council 13', believed certain proposed changes would have helped 6 of his current 13 clients to appeal against their convictions and that he was lobbying for even more far-reaching changes. Whether he is arguing to scrap or retain it is unclear.

More recently, some lawyers argued in favour of keeping the Privy Council, which is based in Britain (Sunday Star Times, 7/10/01 p A7).

In relation to this, Wellington lawyer Peter Knight said of the Privy Council:

...what causes people [in New Zealand] to rethink its role is nationalism ...

Knight was the lawyer involved in former Prime Minister David Lange's defamation case, that arose after North & South in October 1995 published unflattering remarks about him by Auckland University political studies lecturer Joe Atkinson. The high court and the Court of Appeal rejected Lange's case, ruling that the

media should have resort to a defence of qualified privilege when reporting or commenting on MPs or people seeking election.

The Privy Council (in Britain) in that case threw Lange's case back to the (New Zealand) Court of Appeal, saying that NZ courts were better placed to assess the requirements of the public interest in New Zealand than they were.

While Peter Knight agreed that the Council's decision in the Lange case had marked a turning point in terms of the Council's role as a backstop for NZ's judicial system, he said he currently believed that the advantages of the Privy Council outweighed its disadvantages.

The current lawyer for *North & South* agreed with this, said the *Star Times* article.

Perhaps there is some resilience left in the Privy Council, and in its processes, and perhaps New Zealand has a way to go yet to come to grips with that.

The matter of the media printing 'information' from sources about MPs or election candidates, designed to influence electors, but which turns out to be incorrect, has recently exercised the media again. This was after Cabinet or the Attorney-General (Margaret Wilson) or someone in the government (take your pick) quietly inserted a clause in legislation that would have made the media culpable if they did so. After some discussion, including with Christchurch Central's MP Tim Barnett, it was suggested that the phrase should be that the media must have published the incorrect information "knowingly or recklessly". However, when we went to press, the matter had been dropped.

Miscarriages of justice related to facts have 'no effective redress'

Letter-writer Heeni Phillips (Auckland) said the debate over retaining the Privy Council avoided the real problems of the system of appeals in New Zealand (the appellate system; Sunday Star Times 21/10/01). She said about the heart of the problems that:

Once a miscarriage of justice occurs due to the inadequacy or bias of pre-trial investiga-

tions by police or defence counsel, the accused simply has no effective redress available within the current appeal court system in respect of factual issues of the case. The Court of Appeal merely examines points of law, not the facts.

AUSTRALIAN FOCUS

Aussie-based FMS internet group

An Australian initiator has started an Internet discussion group called FMSurvivors (FM stands for False Memory; the S of course does not stand for Syndrome here, but Survivors).

The group is for people who have been through that trouble, or people affected by someone else with FM.

This group is starting to have some interesting discussions and activity. The email address is

FMSurvivors-owner@yahoo.com.au .

Recently the FMS group (and also the witchhunt group) highlighted Dr Yolande Lucire; one person referred to her writing as "essential reading".

Dr Lucire: research on hysteria and moral panics

Dr Yolande Lucire is from the Faculty of Arts and Social Sciences, in the School of Science & Technology Studies, at the University of New South Wales. She is a medical anthropologist and a forensic psychiatrist in private practice.

Dr Lucire says she researches and writes about hysteria and moral panics. In relation to false sexual allegations she goes into the history of the problem, and takes a line of approach that looks towards solutions.

She writes: "What passes for 'memory' has become important in legal proceedings" and in one paper she notably critiques the theory of the social construction of 'reality'; this is relevant to false sexual allegations.

She says she endeavours to provide an accurate diagnosis for RSI (Repetitive Strain

Injury) and other cases, so that "causation is correctly attributed".

She lists her fields of experience as issues in criminality, child custody, compensation, credibility of witnesses, common law, insurance law, superannuation, early health-based retirement, evaluation of disability and injuries, and product liability issues. Email address: lucire@ozemail.com.au ; home page <http://members.ozemail.com.au/~lucire/> .

BRITISH NEWS:

FALSE SEXUAL ALLEGATIONS

British FMS in direct contact with us

To update their contact list for their next newsletter - which is due out soon - the British False Memory Society exchanged details with us on 13 November. We look forward to more information-sharing and exchanges.

British united campaign- 1st conference

The Birmingham Post of 29 September 2001 carried a piece by Professor David Wilson, course director of Criminal Justice, Policy and Practice at the University of Central England, who had attended the first-ever British Conference of the United Campaign Against False Allegations of Sexual Abuse. He wrote:

I can't imagine a conference of this kind ten years ago, so what has caused so many ordinary, decent people to end up in this hall looking for guidance, and sharing their misery of having been falsely accused of sexually abusing their own children?

... false 'recovered' memories obtained during psychotherapy; and police investigations during the great 'children's home panic' in the 1990s, which ... failed to take even the most elementary steps to check the veracity of the stories that they were being told.

Their website is said to be at <http://www.factnotfiction.org.uk/> (the last character, a slash, must be typed).

British MPs will look into claims

A report from the British False Memory Society on 21 September said

MPs are set to examine claims that many men have been falsely convicted of child abuse ...

An all-party group will examine flaws in the way police and courts examine allegations of paedophilia ...

Statistical-type discrepancies in the numbers of convictions between one area and another were attacked. It was suggested the differences related not to concentrations of paedophiles in some areas and not in others, but discrepancies in how the authorities prosecuted the cases and in the rigour in their investigations.

British fathers picketing Judges

Unhappy fathers have been picketing the homes of Philip Price, senior judge at Cardiff county court, Dame Elizabeth Butler-Sloss, president of the high court's family division and England's senior family judge, and Sir Matthew Thorpe, a leading appeal court judge.

They were divorced and separated fathers demanding equal parents rights.

The Equal Parenting Council and the charity Families Need Fathers say the courts are unwilling to act when faced with a mother who is determined to flout a contact order.

Judges are currently reluctant to jail implacably hostile mothers - although they know they exist - for contempt of court, though they have the power to do so. Proposals in the pipeline recommend they do community service and take parent education classes.

'Magill' blasts media amidst false allegations of supporting paedophilia

The November issue of an Irish magazine *Magill* has felt forced to say that it will not be intimidated out of expressing its viewpoint: the subject is sexual abuse allegations in residential schools in past decades, covering at least from the 1960s through to 1973.

Mentioning a notable sexual allegations case in North Wales that resulted in the formation of a group called BESST (along the lines of COSA), *Magill* said:

[Any] who have [really] been abused will have better allies in *Magill* than among those politically-correct commentators who spout platitudes to draw attention to their compassionate natures. No favours will be done to the abused by the wrong people being named and shamed. No favours will be done to this society by a retrospective blanket brutalisation of religious orders.

The matter arises out of a commission, the Laffoy Commission, that was formed, and is now sitting, to investigate sexual abuse and other allegations relating to children's homes, including that residents were used in drug trialling. There apparently is talk that some of the accusers reporting sexual abuse are less than reliably truthful.

NORTH AMERICAN NEWS ABOUT FALSE SEXUAL ALLEGATIONS

New York VOCAL hosted 5th annual conference on confronting false allegations of child-abuse

Several groups interested in false child abuse allegations had a conference in New York on 16-17 November. Attendees included author Dean Tong, Howard Fishman, an expert witness, a paediatrician, private investigator Keith Workman, and others. The event was to feature a panel on "Effective Action and Surviving Wrongful Imprisonment".

Millions affected by false memories?

A psychiatrist from a Canadian hospital in a published letter estimated that "millions have been falsely prosecuted internationally due to false memory".

A Canadian contact said **millions** was a conservative estimate. With the insight of a man whose son retracted false sexual allegations against him last year, he argued as follows. 1 million self-help books had been sold that

advocated excavating minds in search of hidden memories of CSA. Some therapists fell for the idea, believed the books, and influenced their clients, even if those clients did not read the books themselves. He continued: following from this, and combining it with facts from a 1993-94 survey of US psychologists by Mark Pendergrast, rough sums could be done: these sums accounted for 1.25 million cases. That figure, he said, did not account for US therapists with much less than PhDs in psychology.

According to a report by the late Rev Dean Austin (sourced by Dean Tong), 97% of child abuse reports in divorce were unsubstantiated. In Canada, close to 2000 families had reported to a support group that a son or daughter had false memories; 240 had resulted in a court case.

DNA-TEST clears man after 13 years in prison

In Cleveland, a man who served 13 years for rape was cleared by DNA evidence from a washcloth used by the attacker. The man's step-father had found the washcloth. The DNA on the cloth did not match the convicted man's.

The judge apologized to the man, Anthony Green, who had just turned 36. He had been convicted after a woman who was raped testified that he was the man. The woman, who was being treated for cancer in a clinic, has since died of the disease.

Family disputes actress's allegations

Actress Anne Heche in an autobiographical book published recently speaks of memories of being sexually abused by her gay father from the time she was a toddler (although we are amnesic for that period). Nancy Heche, Anne's mother, said about this:

I am trying to find a place for myself in this writing, a place where I as Anne's mother do not feel violated or scandalized. I find no place among the lies and blasphemies in the pages of this book.

Anne's sister Abigail Heche said Anne sometimes had doubts about the story. Because of them, and because of her own experience, she said, she believed that her sister's memories regarding her father were untrue.

Please feel free to copy this newsletter, and pass items on to interested people

Opinions expressed in this newsletter are not necessarily those of COSA New Zealand Inc.

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