



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

PUBLIC DISENCHANTMENT GROWS

Systemic problems in the judiciary

NBR-Compaq poll finds most people think Ellis innocent

New Zealand's National Business Review reported on 3 May that its latest NBR-Compaq poll, their 'first guilt poll', found 51% of people now believe Ellis was not guilty of sexual abuse at the Christchurch Civic Childcare Centre. It also stated "That was more than double the 25% who thought he was guilty, or 24% who were unsure or refused to answer." And "In Christchurch, where feelings ran highest, 55% of people said Ellis was innocent." The poll was conducted on 750 people over 4-8 April 2002. Although the paper may be 'right wing', the poll was not biased as it was properly conducted, statistically speaking. - National Business Review, 3/5/02: 'New findings in controversial Ellis case' p 2; 'First guilt poll reveals public view on controversial case' p 16; by Deborah Hill Cone.

The case could become an election issue

The Otago Daily Times covered the NBR-Compaq poll results on its page 2. It reported there that Lynley Hood said the poll results meant the case could become an election issue. She said both political parties should be interested in it. "If Government doesn't take it up, it could be a strong election platform for another party given the strong electorate support."

She said the ramifications of the Civic case should be addressed by an inquiry, to address three areas: the conduct of the police, the problems around distinguishing between true and false child abuse allegations, and the Court of Appeal's great difficulty correcting judicial mistakes.

Hood's book *A City Possessed* is our first examination of the case from social, psychological, political, and legal perspectives. It has been highly praised as an exemplary study. People from various professions have asked for authorities to take action on the various problems it reveals.

No. 13 MAY 2002

CHRISTCHURCH CIVIC CASE

Systemic problems in the judiciary

NBR-Compaq poll

The case could become election issue
'new' allegations

Legacy of a decade of distortion

December 2001 to April-May 2002

Ellis society's scapegoat, Dreyfus,

Justice Minister tries to placate unrest

Lynley Hood calls for inquiry

None conspired to jail an innocent man'

QC asks for independent body

Lynley Hood's call to Justice Minister:

Hood's research, arguments, convince

Sir Thomas Eichelbaum report

'Ellis asks Goff for new inquiry'

Auckland psychology professor support
view in response to Dr Corballis

'Face reality' Mr Goff:

'The case (the full case) Katherine Rich

Lynn Crook trips

Civic Case - NZ Law Journal

Section 23G of the Evidence Act,

Wisdom from the bench

Other NZ news

Christchurch Police

Police investigation problems, PCA

Why the CIB staffing problems?

New District Commander:

Retired Det. Sup. Millar (Christchurch)

Police Guild's booklet

Sexual allegations in Education

Teachers Council: compulsory vetting

Sexual allegations in Catholic Church

Sexual allegations in the Health field

New report for Medical Council

Unnamed Hastings doctor 'abuse row'

False allegations, 'not guilty' verdicts

Girl's claimed rape, to be charged?

'Not guilty'- alleged violation of nephew

Woman prosecuted, fined,

Police: pack-rape allegation was false

Man, now acquitted, had retrial

Compensation?

Compensation for Wrongful Conviction

International news re false allegations

The final arbitrator may be the Privy Council

At the same time as the poll results became public, Judith Ablett-Kerr QC, Ellis' lawyer, announced that she is preparing to take the case to the Privy Council. In the next month she will file a petition to the London-based Council, seeking special leave to proceed with an appeal.

Christchurch paper reports 'new' allegations where no basis is evident, ignores poll news

'The Press' on 24 April 2002 (p 4) carried an item about a supposed new complaint against Ellis, though it was known 2½ years ago, and though after all this time, no charges have materialised. Yet the paper has apparently ignored the significance of the NBR-Compaq poll, so that by 13 May 2002 nothing about it has appeared in the main newspaper of the home-city to the case.

Only a full focus, possibly during the election, on the judicial-systemic issues including those behind false sexual allegations, will meet the public's requirements that there are concerns that must be addressed and resolved.

LEGACY OF A DECADE OF DISTORTION

Still working on the Civic Case

After a deafening silence from executive quarters for a couple of months following the publication and subsequent release of *A City Possessed* in October 2001, the thinking public gradually started to respond.

This was done by extensive communication through newspapers and television, written challenges and suggestions to the Minister, and general talk, including on radio. The views expressed were very predominantly in favour of the book's tenor.

Below we mention some aspects of current debate.

1. Chronicle of public discussion, from December 2001 to April-May 2002

Ellis called society's scapegoat, case likened to the Dreyfus affair: failure to address seen as 'moral cowardice'

The ODT has asked that Justice Minister should read Lynley Hood's book, said the paper in editorial-like opinion piece, "Justice Possessed" (ODT, 5/12/01 p12), comparing the case to that of Alfred Dreyfus, with its similar theme of scapegoating someone different. In Dreyfus's case, which took place in France, his 'difference' was that he was a Jew. In his case, and it was in 1894, Dreyfus was accused of selling secrets to the German military attaché in Paris. After a secret military trial he was sentenced to life imprisonment. However, in 1898 his case was taken up, including by the writer Emile Zola, who argued that Dreyfus was a victim of rivalries amongst royalist, nationalist and militarist elements in the French government system, and anti-semitism and anti-clerical elements in the judicial system. Dreyfus was retried in 1899, and found guilty again, but was eventually pardoned in 1906.

Hood's book is "an extraordinary book by any standards" and it "has exposed flaws in the criminal justice system that raise very serious doubts about whether Mr Ellis received a fair trial", said the piece, and to the Minister's claim of the Eichelbaum report being 'the end of the matter', it said (5/12/01 p 12):

But of course, it is not the end of the matter, just as sending Alfred Dreyfus to Devil's Island for life was not the "end of the matter". Mrs Hood has laid bare systemic failures in our justice system and Mr Goff should read it. ... [A]ny failure by a government to take all possible steps to correct discovered defects must be seen as an act of moral cowardice.

Justice Minister tries to placate unrest

Only 3 days later, the ODT carried a response from the Minister of Justice in the form of a Letter to the Editor. He tried to rebut argu-

ments in a general way, expressing reliance on Eichelbaum.

He then asked Hood to let him know if she had fresh evidence. This was virtually asking her to read him her book.

The minister had similar letters published elsewhere (eg, Sunday Star-Times 9/12/01 p A8).

Lynley Hood calls for commission of inquiry and pardon for Ellis

In a keynote address in Christchurch, Lynley Hood called for a commission of inquiry like South Africa's truth and reconciliation commission. Addressing the 5th Annual NZ Early Childhood Research Network Symposium at the Christchurch Polytechnic Institute of Technology, she said she researched the book to find out what happened and why. Having done 7 years work, she found it was pretty clear to her that Ellis was innocent. A pardon was the legal option for Ellis, and there was a strong argument for an inquiry. - Commission of inquiry proposed in Ellis case, Star 7/12/01 pA6

Civic Case a 'running sore' - 'Listener' Editorial

An Editorial in The Listener called 'Whiffs of injustice,' by Bruce Ansley (8/12/01), pointed out that while there was the possibility that Ellis was wrongly convicted, which was bad enough, there was the added load on him that it was over the most odious of crimes. Ansley chronicled the sequence of legal inquiries, noting that for the last one by Sir Thomas Eichelbaum, the terms of reference were too narrow. Ansley said that the sequence smelled of manipulation, and that this had 'succeeded in making the Ellis case a running sore'. He concluded:

The play so far has only made the dilemma worse. A retreat would be a huge loss of face for the police, courts, and government, who all now have a vested interest in Ellis's guilt. But injustice is corrosive. It lingers. Only a public inquiry can resolve it now.

'None conspired to jail an innocent man' - Hawke's Bay reviewer

The provincial paper Hawke's Bay Today, with more apparent sophistication than the minister, ran a review by Peter de Graaf (8/12/01), who said Hood's book raised serious questions about Ellis's convictions despite the loss at the trial and two appeals. De Graaf noted fairly that none set out to conspire to jail an innocent man. "All were driven by a desire to uncover child abuse and punish its perpetrators," he stated, but how little has anything changed between 17th Century Salem and 20th Century Christchurch, he concluded.

QC asks for independent body to consider claims for wrongful conviction

Christchurch resident Nigel Hampton QC then reportedly called for the Minister of Justice to establish an independent body to consider claims of wrongful conviction. This would include Peter Ellis, and others, according to the report. Mr Hampton had recently lodged a bid for a pardon for one such person, Rex Haig. Mr Haig's case was not an instance of false sexual allegations, but a wrongful conviction for murder, according to what he says. Mr Hampton's application had questions about the witnesses 'evidence' in the Haig case, and a 100-page report from former police superintendent Bryan Rowe (The Press 11/12/01 p5).

Lynley Hood's call to Justice Minister: You CAN do it ('with a bit of encouragement';-)

Lynley Hood, in a letter in response to the earlier letter from the Justice Minister in the Otago Daily Times, said he had misrepresented her when he had described her as 'an advocate' for anyone involved in the Civic case. She said eminent legal authorities have said her legal analysis is correct, and that the Government must address the problems in the justice system that she had identified. The Minister could instruct the governor general to give a pardon, and have a commission of inquiry, without the permission of the judiciary, even although Mr Goff had tried to state he

couldn't, she said. If the royal pardon was ever to serve its proper function it meant the Minister did have the power to call it into action, she explained. She narrowed the issue down to it being a matter of Mr Goff "finding the moral courage and political will to act when it is obvious that the judiciary has made a serious mistake" (ODT 12/12/01 p 12; also SST 16/12/01 p A6).

Printed on the same page, R.E. Mawson added a voice to the calls for something to be done. To date a consensus had 'merely concluded that the rules of our current system were applied to Mr Ellis's seven convictions', but, the writer went on:

They have not examined the system itself to determine whether a fair trial was even possible.

To pardon Mr Ellis now is to find the system guilty, and I suspect that this is the reason for the Justice Minister Phil Goff's reluctance to read Lynley Hood's book, *A City Possessed*.

Hood's research, arguments, convince reviewer

An article by Jim Tucker in *The Daily News*, New Plymouth, was such a thorough going-over of the book's content that even people who did not read the book would find themselves informed on its breadth ('Justice hard to find in a city possessed', 15/12/01 p 21).

[His biography notes say: Jim Tucker (53) has been teaching journalism since 1987. He was a working journalist in New Zealand from 1965 until 1987, when he resigned as editor of the *Auckland Star* to take over the journalism course at Auckland Institute of Technology. He taught there at diploma, undergraduate and masters levels, before departing to his hometown, New Plymouth, to take over the Taranaki Polytechnic Diploma of Journalism course in 1998. He completed an MA in communication studies in 1999. He has written two journalism textbooks, *Intro* (1999) and *Kiwi Journalist* (1992).]

Tucker highlighted Hood's text regarding Sir Geoffrey Palmer's role in the state of play, saying:

... Hood is fearless in laying to blame [who is responsible] for changes to the evidence rules that partially led to this state of affairs. She names none other than former Prime Minister and Justice Minister Sir Geoffrey Palmer as the politician who introduced the "reforming legislation" ... "late at night, under urgency, on what was expected to be the last sitting day before Parliament broke for Christmas [1988]".

Writing as if reflecting he was convinced of the rightness of her arguments and positions, Tucker highlighted that Hood wrote of an "ideological coup d'etat [that had] wrenched control of ... investigation and prosecution of child sexual abuse away from the relative objectivity of the justice system, and placed it in the hands of the clearly partisan child protection movement," and that in the end, the court had failed to confront that movement.

Mr Tucker also praised Lynley Hood's courage:

This 58-year-old Dunedin scientist, writer and grandmother, has, by using great courage, stepped outside the mainstream thought and suggested it is not OK to distort the law, condone over-zealous counselling and police-work, and cause collateral damage in a quest to rid the country of child molesters. It has cost her dearly ...

... Publication of the book carries significant risk because in it she finds serious defects in the way eight senior judges handled various appeals ... and she is scathing about the last attempt to settle the case ... by Sir Thomas Eichelbaum ...

He said the 'possession' of Christchurch by rumours about child abuse and porn was a "dangerous precursor to the breakdown of justice and democracy". And as a result, he concluded, many people reading the book will be inclined to agree something needs to be done.

Sir Thomas Eichelbaum examined how children's reports were collected, but not evidence itself

A letter from Lesley Ellis, mother of Peter, said that Phil Goff's letters to newspapers were an attempt to sway public opinion, and that some had called his form of response unprofessional and an abuse of power. For herself, she said, she called it outrageous, 'when he doesn't even quote the facts'. By way of explanation she said that rather than examine actual evidence, Sir Thomas Eichelbaum, who had never contacted her son, had restricted his parameters to *how the children's evidence was collected*. And, in contradistinction to what the Minister wrote, she said that the appeal court judges, by suggesting that the case would be better dealt with by a commission of inquiry, had of course indicated that THEY WANTED such an inquiry. Lynley Hood had added her voice to that of the appeal court judges, and now a trail of academics, coalface QCs, lawyers, journalists and the public had added theirs as well. (Sunday Star Times 16/12/01 p A6).

Meanwhile: letters to 'The Press' from a variety of dogged 'foot-soldiers'

First *N. Gillespie* asked why Karen Zelas has not responded to the book, taking a letter by Zelas on another subject as an opportunity to ask. Then *G. Mutch* (p 8, 18/12/01) took Gillespie 'to task', saying she shouldn't have concentrated on Zelas, noting that the silence has 'reigned over virtually everyone involved in the injustice to which it refers. "Who can blame them?" he went on. "It must be enormously embarrassing, not only that Peter Ellis suffered such needless injustice but that thinking adults actually embraced the absurd notions surrounding it". He hoped it would not be only the parents for whom the book confirms 'what they must already have come to realise' - ie, that they were wrong when they once believed that their children may have suffered abuse.

Between-times, *Ed Hitchcock* (16/12/01 p 15) said that at least the system was open and

Hood could write what she wrote. He asserted this did not apply to the Family Court where the occurrences of many of the issues Hood identified happened regularly, but where nobody is entitled to observe or report publicly about the proceedings. *B.H. Howard* on the same day said the Minister was 'not reading' the book for fear he would have to face that aspects of legal procedures needed to be investigated. The more that this state continued, he wrote, correspondingly ever-more was the law made to look an ass.

The following day *Chris Neale* said Justice Minister Goff ought to be ashamed, and the situation would remain a case of justice denied if, from his 'dyslexia', the Minister continued to refuse to read Hood's book (20/12/01 p8).

'Ellis asks Goff for new inquiry'

This heading nearly said it all (The Press 19/2/02 p 3), but really what Ellis did was make a *renewed call* for an inquiry. It came after he heard on the grapevine that the New Zealand Law Journal was to highlight flaws in the way his case was handled, in its February 2002 issue. According to the grapevine the editorial was going to say that Sir Thomas Eichelbaum's judgment, when leading the ministerial inquiry into the case, was either wrongly directed or at fault. And it was also thought that the editorial would call for the repeal of a section of the Evidence Act, and would question whether the appeal process really worked. (We duplicate the authoritative editorial itself later in this issue.)

Mr Ellis said Mr Goff should 'honour the word' of the Court of Appeal, which would be better addressed by a commission of inquiry.

Auckland psychology professor supports Hood's analyses

Professor Michael Corballis, Senior Lecturer in psychology at the University of Auckland, wrote a favourable review of Hood's book in New Zealand's 'Listener' magazine early this year. He highlighted moral panics/witchhunts,

saying 'these bouts have increased, if anything, with advances in technology and the trappings of enlightenment'. His pointed criticisms were broad, including post-modern rhetoric, cultural relativism, the disdain for quantitative methodology, and 'the sexual abuse industry' (Listener 26/1/02 p 60).

[Dr Corballis has been described elsewhere as having helped establish a committee to assess the intake for Auckland University's doctorate of Clinical Psychology professional training course. The course runs under the co-directionship of senior lecturers Dr John Read and Dr Fred Seymour, on an alternating basis. This seems to relate to current debate/s in psychology, such as whether psychoanalysis and cognitive behavioural therapy are mutually exclusive paradigms, or not.]

Of Hood, although 'her indignation occasionally shows', Dr Corballis said he believed her 'conclusions are if anything understated', and noted Hood had a position that was not unsympathetic to the situation of sexual abuse workers, in the past, when they were assailed by apparently authoritative statements by some of the more zealous members of the industry. He contrasted this with the succumbing of the police and the judiciary, to these same pressures, which he said was achieved 'frighteningly easily'. The succumbing of the police was something not easily sympathised with.

Corballis said definition of sexual abuse is still unclear, and the harm was difficult to define because what badly hurts one complainant may not do the same to another.

Corballis noted the hunt for child abuse at the Civic had put an end to the City Council-provided child-care service, leaving instead of it 'a society bitterly divided by suspicion and recrimination'.

He concluded that the book should be compulsory reading for counsellors, clinical psychologists, psychiatrists, the police, the judiciary and ministers of the Crown.

Contrary view in response to Dr Corballis - National Radio item

An 'increasingly distressed' Anne Else of Auckland, in a short piece in National Radio's 'Sunday Supplement' (27/1/02), felt the need to take Dr Michael Corballis's Listener review to task. That she was referring to Corballis was only made quite clear by a copy of the transcript, including references, kindly supplied by Phil Smith of Radio New Zealand. Ms Else firstly tried to take Corballis, and perhaps others, to task for using the derivative term 'the sexual abuse industry', because, she asserted, it didn't exist. She went on to respond to Dr Corballis's remark that a lot of harm has been done seeking to find child sexual abuse, more than by the abuse itself, real or imagined. Ms Else, in the programme where community commentators can get on their soapboxes, even setting up straw horses if they wish, retorted:

... [If] real sexual abuse of real children does not do any real harm at all - certainly nothing comparable to the harm done by those who try too hard to stop it happening or continuing - then the implication is clear. Instead of trying to detect it, we should all just sit back and let it happen. The risk of harm would be much less.

Perhaps such an idea was ever only in her imagination. She also asked that people don't misrepresent sexual abuse as trivial.

'Face reality' Mr Goff: testimony of children as young as those in Civic 'cannot be relied upon'

Bernard in a Letter to the Sunday Star Times (20/1/02 p A6) pointed out to the public in the context of "Lynley Hood's meticulous investigation of the Peter Ellis case", that a recent study had demonstrated clearly that testimony regarding sexual abuse from children as young as those in the Civic case cannot be relied upon. This study, referring to what children report after they are exposed to misinformation from parents, is from Journal of Experimental Psychology Applied Vol 7, p 27.

(For an abstract see www.apa.org/journals/xap/xap7127.html; it dates from March 2001.)

"The worrying thing is that the same "counsellors" and others who provided the evidence for the Ellis case are still appearing in court using the same flawed procedures in the same sort of cases with apparent success and that lawyers are still urging people to claim childhood sexual abuse in order to win large sums of cash from ACC", said Gadd. It was time for Phil Goff to face reality, and bring those dealing repeatedly in accusations of sexual abuse of small children to account.

[The Christchurch Star of 14/12/01 noted that START (Sexual Abuse Therapy and Rehabilitation Team), a community organisation notorious for its relationship to the Civic case from 1991 onwards, was to be the recipient of donations out of the paper's City to Surf fun run in March 2002. It is galling to see the agency partly responsible for the Civic case, if it has done nothing to recompense or to properly educate itself so that it does not tend to support sex allegations even when they are false, getting this endorsement.]

'The case (the full case) needs to be reviewed' - Katherine Rich

National MP Katherine Rich didn't pay much attention to the Civic case when it ran during 1992-93, and she thought the justice system would probably get it right. So, after first shying away from reading Hood's new book, it was a surprise to her that when she did pick it up she found it 'unputdownable'. Having read it, she is left with 'unsettling doubt and a gnawing feeling that neither a fair trial for Ellis nor justice was achieved'. If all the evidence had been heard, the jury wouldn't have found Ellis guilty beyond all reasonable doubt, and "The case (the full case) needs to be reviewed and Goff must acquaint himself with the book, perhaps via an official", she wrote. She compared Goff's situation to Rob Muldoon's over Arthur Alan Thomas, where he ordered a QC to report, overturned the verdict, and paid compensation (ODT, 31/1/02 p 2 'The Rich Report').

Lynn Crook trips

Lynn Crook is a prominent 'survivor' in the US. [Lynley Hood wrote (in a message to an internet group): *The recovered memory case of Lynn Crook, author of the letter to the Listener in response to Corballis's review of A City Possessed, features in chapter 6 of Ofshe & Watters' book Making Monsters. Ofshe & Watters disguised Crook's identity, but she was identified by name in a lengthy review of the book in the L.A. Times. Also, Crook has identified herself and made her case public on a number of high-profile occasions.*

...Crook also made a high-profile complaint to the APA against Elizabeth Loftus that brought the falling-out between clinicians and scientists in psychology to a head [it saw Elizabeth Loftus leaving the APA and helping form another organization]. Ofshe, Watters & Loftus have rejected Crook's claims of misrepresentation. In any event, the basic elements of her case are undisputed: that she went into therapy complaining only of problems with her new boss, and recovered memories of horrendous abuse by her parents during years of therapy. She successfully sued her parents on the basis of her recovered memories. The alleged abuse included having to insert her arm into a horse's anus when she was four years old, and having to do a similar act to her father. (In court the defence called a vet to describe the horse's likely reaction to having an arm forced into its large intestine.) Crook 'remembered' that her father made her eat a bowl of her own faeces, and forced her to chew 20 times after each bite.

Lynn Crook (who has an M.Ed (Richland, WA, USA)), in the rebuttal, defies Ofshe & Watters for what was said about her in 'Making Monsters', but she is selective, mentioning only the more-believable accounts of her possible abuse. The rebuttal is: Crook, L. 1995. Letter from Lynn Crook, Journal of Child Sexual Abuse Vol. 4(2) 115-11; it may be seen at <http://>

[/www.brown.edu/Departments/Taubman_Center/Recovmem/crookletter.html](http://www.brown.edu/Departments/Taubman_Center/Recovmem/crookletter.html)]

Lynn Crook responded in the Listener (in the 9-15/2/02 issue), to Dr Corballis' review of Hood's book, alleging he had taken a provocative stance, stating:

Discussing sexual contact between adults and children, he writes: "There are serious, still unanswered questions as to when affectionate touching becomes sexual, when sexual activity becomes abuse, and precisely what kinds of abuse are likely to cause serious psychological harm, and to whom."

However, Corballis was not discussing sexual contact between adults and children before the quote as she so arranges, but generally about the lack of any as yet clear differentiation between affectionate contact and sexual contact.

Corballis also had listed other factors about which there are still unanswered questions, such as 'precisely what kinds of abuse are likely to cause serious psychological harm, and to whom'. One aspect of this set of unanswered material may have age as an element, including about pubescent and post-pubescent youths who yet are legally children, ie, under 16.

Ms Crook seems to reflect some of the problems that some people have, over the fact it is legitimate to discuss what might separate say affection, and sexuality, from abusive sexual behaviours. This is reflected, for example, by the fact that in the research, some people who are defined by some as sexually abused, haven't defined themselves as such and haven't felt abused. It is reflected in the fact that although some people agree they've been sexually abused, they say they have got over it without that much harm, whereas advocates may say that sexual abuse always causes a lot of harm.

2. WHAT MUST BE DONE IN THE WAKE OF THE CIVIC CASE - 'NZ LAW JOURNAL'

Reprinted from The New Zealand Law Journal, February 2002, Page 1, Editorial,

The Ellis Case

The Minister of Justice appears proud to say that he refuses to read Lynley Hood's book *A City Possessed*. This is unfortunate as there are numerous lessons to be learned from the saga that are of value today, regardless of the issue of Ellis's guilt. On that issue alone, we are witnessing the kind of establishment obstinacy and public dissatisfaction that led in Britain to the Criminal Cases Review Commission.

The Minister shelters behind the Court of Appeal and the report by Sir Thomas Eichelbaum, but this is not good enough. One of Lynley Hood's achievements, as a non-lawyer, is an astute criticism of the shortcomings of the various methods available to review criminal convictions. Each of the reviews and appeals suffered from some limitation, self-imposed or otherwise. *A City Possessed* is the first attempt at a review of the whole case from the investigation onwards.

The first issue obviously is whether Ellis should have been convicted. No one who has read the confusion and contradiction displayed by the witness statements that Hood recites can be happy that the convictions are safe. The Court of Appeal confessed to having read only extracts of the statements, but this is not enough to make one content with them, whereas relevant extracts are sufficient to show that witnesses were confused, self-contradictory and unreliable. Either Sir Thomas did not read those statements because, like everyone else he restricted himself to the filleted evidence that the Judge allowed in, or, with respect, his judgment is at fault.

Regardless of that issue, however, there are several systemic matters which clearly require attention and which, it seems, require attention today just as much as a decade ago.

Police investigation: the investigation in the Ellis saga suffered from a clear fault which was that it was driven by a junior officer with a

bee in his bonnet. Senior officers seem almost never to have exercised independent judgment: they evidently regarded themselves as the heavy guns to be wheeled out whenever the OIC needed. It is clearly inappropriate that a multiple victim case involving serious criminal allegations, important legal and policy questions relating to evidence, and major budgetary issues, should have been conducted by an officer of the rank of Detective. Exactly the same thing seems to have happened again in the Sotheran Dash-8 crash case, where either the Detective concerned was being used as a front to shelter the real decision makers or another hugely expensive and complex investigation was conducted without any leadership from supervising officers.

Section 23G of the Evidence Act: this section is meaningless nonsense. This is not hindsight, it was said at the time it was passed. The section authorises the giving of evidence about whether behaviour is consistent or inconsistent with sexual abuse. "Inconsistent" means "logically impossible in combination with" and "consistent" simply means "not inconsistent". There is no behaviour that is inconsistent with sexual abuse and so the DSAC manual instructed doctors to report all behaviour as "consistent with sexual abuse". This is clearly not understood by most lawyers and police, who, surveys show, think that "consistent" means "provides supporting evidence for". Sadly, the Law Commission draft Evidence Code just reiterates this nonsense verbatim. It should be repealed. The kindest thing that can be said for those responsible for it is that they cannot have known what they were doing.

Psychological evidence: little psychological evidence stands up to serious scrutiny. Psychologists have managed to con the system for years with nonsense such as "offender profiling" which has no scientific basis whatever. The fact is that psychology completely lacks a general theory of human behaviour

and the divisions between schools of psychology are as deep as argument about whether the earth goes round the sun or vice versa. Few psychologists understand the logical structure of evidence they are giving, as surveys of numerous cases, listening to them speak on this and other issues at seminars, and personal experience of trying to train them in evidence-giving, demonstrates. Almost no statements made by psychologists are backed up by the population data necessary to give the evidence probative value. The so-called "prosecutor's fallacy" is endemic. Recently a psychologist on television suggested that many premature births are due to stress events in pregnancy. To prove this she interviewed mothers who had given birth prematurely and discovered that some high proportion of them had suffered stress events in pregnancy. This, she said, proved her theory. Much psychological evidence in real Court cases in New Zealand and elsewhere has been as unintelligent as this. The mystical hold that psychologists seem to have over the legal system should be broken.

The appeal structure: The position in a criminal appeal appears to be this. If you are an undoubted criminal caught red-handed but you can point to some defect in police procedure, the Court of Appeal will exercise a power it has arrogated to itself and which Parliament never intended it to have, to rule the evidence inadmissible and set you free. If on the other hand, you argue that you are innocent and have only been convicted because of misjudgments by the trial Judge and by the jury, the Court of Appeal will refuse to exercise the power Parliament intended it to have to revisit the conduct of the trial and the evidence available. This is not how to create confidence in the criminal justice system."

Wisdom from the bench

A group of Hawkes Bay teenagers have been tried and convicted over violating a school-mate with a broomstick. An item in a Christchurch paper noted the judge's remarks, as in the paragraph-extract following:

"The only explanation I can find for it is that this was group or mob hysteria which fed upon itself, whipped up because of senseless notions that macho male behaviour, ritual, or schemes, sanctioned this as being what men do on occasions. Well, decent men don't and if they do then the law will exact a stern response"

- Justice Gendall told the High Court in Napier". (*The Press* 4-5/5/02 'Mainlander' p 1, "Reining in the bullies").

Substitute a few words into the same statement and it could equally have applied to the Civic case a decade ago.

"The only explanation I can find for it is that this was group or mob hysteria which fed upon itself, whipped up because of senseless notions from some parents and unprofessional advisors, supported by homophobic ritual, and faulty systemic schemes, which sanctioned this as being what PC communities do on occasions. Well, enlightened communities don't and if they do, then the law should exact a stern response."

Alas we are still waiting for such wisdom to prevail.

Justice Gendall in February 2002 was appointed a Master of the High Court, according to an announcement made on 26 February by the Attorney General Margaret Wilson, and his term was to run from 13 March 2002 for five years.

The various forms of what historically has often been called hysteria, as Justice Gendall calls it, are examined by Lynley Hood in her new book on the Civic case, 'A City Possessed'. She distinguishes mass hysteria, mass psychogenic illness (and mass psychogenic illness by proxy), moral panic, and scapegoating. She gives ritual some coverage, but generally in the context of fabrications.

'A City Possessed' is now available at amazon.com.

CHRISTCHURCH POLICE

Jim Millar was head of Christchurch's CIB during the Civic case, which started in 1991. Problems in the police became evident by and during that time, and have been the subject of specific and general criticism. Millar conducted the PCA inquiry that investigated Detective Eade who had been leading the inquiry into the Civic case for a period of time from late 1991 (as covered in Lynley Hood's *A City Possessed*, pp 325-8). The PCA/Millar inquiry outcome was made plain in a press heading in 1998: "Creche cop cleared by top level inquiry" (*Sunday News* 14/6/98).

But this outcome was patently unsatisfactory and it did nothing to right the wrongs perpetrated against people smeared by the allegations.

Police investigation problems and PCA difficulties not just peculiar to Christchurch

Two years ago, Joe Karam won a defamation case taken against him by two members of the Police, over evidence they gave in the Bain murder case in Dunedin, which he said was incorrect in certain respects. Former Det Sgt Milton Weir, and then-current Det Sgt Kevin Anderson were ordered to pay Karam \$350,000, after the jury decided Karam hadn't defamed either of them when he implied that evidence in the case involved perjury. By this the police had their reputation tarnished, especially since, via their own Police Complaints Authority, they had already done an investigation that exonerated themselves for their conduct.

Why the CIB staffing problems?

More recently, various reports have continually referred to ructions in the Criminal Investigation Branch (CIB) of the Canterbury Police. The CIB deals with homicides and other serious crime, including sex allegations. Until recently it had Inspector Rob Pope at its helm, with a group of about 150 officers. This was the department hardest hit by a detective exodus, according to a report, which went on to say that the flow had finally now been stemmed (Jarrod Booker, *The Press* 10/10/01 p5).

NEW DISTRICT COMMANDER: WILL SHE OVERSEE IMPROVEMENTS?

An announcement in February 2002 said that a new District Commander for the Canterbury Police, Sandra Manderson, had been appointed to replace Superintendent John Reilly who retires in March. She would be the first woman district commander in New Zealand (The Press, 27/2/01 p 1).

Originally from Canterbury, she has management and CIB experience, and was seconded to the office of the Prime Minister and Cabinet for 3½ years as director of the crime prevention unit.

She has a BSc and an MSc (Hons), in geography, and an MBA (Masters in Business Administration). She was awarded a Queen's service medal for her work in Christchurch on a project to curb fear of crime, and has an extensive sporting background.

Acting NZ Police Commissioner Steve Long, commenting on staff speculation, said that Manderson had won the position fairly and squarely. Mr Pope said he looked forward to his stint in Napier and to returning to a productive relationship with the new district commander (The Press 6/3/02 p 2).

We can only hope that the new appointment may help upgrade staff's professional performance.

'What the public see in some media reports is fiction' - perception of retired detective-superintendent Millar (Christchurch)

A reflective piece about the now-retired Millar, 55, was published in The Press early this year (1/1/02 p 20). Now, four years since he conducted a PCA inquiry into the Civic investigation, he - perhaps tellingly - said that over the last 20 years the police have become confused about their central aim. Issues in community policing such as in health, employment and education, might best be passed to "other organizations that are best suited to dealing with them", he said. Taking up side issues has seemed to mean that the police in recent times haven't always been able to respond to calls

as promptly as they would have wished, he said. The upshot was, he said, that the police need to visit their priorities, starting with what their prime focus is. This is perhaps encouraging for clearer demarcation of the Police from advocacy groups, as they should be.

Putting the best slant on the compromised office, he said that despite the high turnover of staff in the Christchurch police, there were still 'top people' in middle management in the CIB office.

Much of Millar's career was spent working in the Police Complaints Authority office, which explains how he came to have investigated Det Eade's handling of the Civic case. Millar defended the PCA's record of operation. He said the authority being internal, which meant the police investigated their own complaints, was the best arrangement, because only senior police officers were in a position to know how to do an investigation of police procedures. To do it any other way would amount to too big an undertaking. He asserted that generally in the police there is an intolerance of corruption.

The COSA editors feel that while the police may be resistant to some sorts of temptations towards corruption, it is clear that they have, possibly inadvertently, moved towards an unprofessional stance around sexual abuse allegations and their investigation.

Serious inquiries are sometimes distorted in the public's mind, Millar went on, by reports that are wrong, and he said that it made it very difficult for the police officers involved. "Often the stuff written could be compared to a novel rather than the truth' he said. 'No officer would be concerned about fronting up ... and establishing what is alleged to have occurred, but it's pretty tough on staff, when...a lot of the stuff [printed about cases] is based on novels'.

Thinking of the Civic case, we know that 'A Mother's Story' by Joy Bander reads like this. Incidentally, Joy Bander is the alias for the person Lynley Hood calls Mrs Dogwood in A City Possessed, whose son eventually came out with statements that became responsible for charges against Ellis and others.

Police Guild's booklet takes account of (some) violence perpetrated by women on men

"Men should never think their partner's violence is their fault. Just as men make a choice to be violent against their partners ... so do women. She chooses whether she will slap a man's face ... She chooses whether she will lash out and scream at the family because she is feeling unwell" (NZ Police Managers' Guild, Family Violence booklet, October 2001).

Sometimes, we might think, a grown-up woman ends up transferring some spite, stress, disappointment, or any of a number of other things that underpin expressions of violence, to false sexual allegations. This can occur in her own household, or be directed to someone outside it, and it can consist of allegations to a person currently in her social sphere, or someone from the past.

Whatever the case, the allegations, if false, act like a violation. We wonder if such cases are covered by the scenario referred to in the Police Guild booklet. If not, something is needed to cover these.

SEXUAL ALLEGATIONS IN EDUCATION

New 'Teachers Council' group announces compulsory vetting for non-teaching staff

The New Zealand Teachers Council, which came into existence in February this year, has announced that it has the responsibility for coordinating the police vetting of non-teaching staff and contractors regularly employed in schools, kindergartens and early childhood centres

(see http://www.edgazette.govt.nz/notices/shownotices.cgi?notice_type=1&index=true&issue=126).

An 'Administrative Advice' document there says for positions with substantial contact with children, Boards need to apply for Police checks. To do this the applicant needs to sign a consent form, but:

As the vets are legally compulsory it is technically unnecessary for the person to give "permission" to a vet but the police require that the individual being vetted signs the consent form for privacy purposes.

However, we wonder - if the applicant doesn't mind talking about his or her case - whether s/he really does need to sign a consent form, as there is a question of whose ends are being served by privacy, such as in the case of people who have had false allegations result in their conviction.

The crimes identified as relevant to the check are crimes against persons, specifically 'past history of sexual abuse of children', 'conviction for any crime in which children were involved', and 'history of any violence or sexually exploitative behaviour'. If relevant convictions (not just arrests) are found, the policy says the Board might disqualify the person's application, but not necessarily. The Advice at the same time goes to some lengths to suggest that old offences of some kinds (eg, convictions arising out of the 1981 tour) and old and minor drug-related offences, need not be used by boards to disqualify an applicant from holding a position.

SEXUAL ALLEGATIONS IN THE CATHOLIC CHURCH

New Zealand responds to the world-wide focus on Catholic sexual allegations

New Zealand Cardinal Tom Williams said in a news item that the Catholic Church in New Zealand had developed detailed procedures for handling complaints of sexual abuse. Catholic communications director Lyndsay Freer said she understood the church's complaints committees had dealt with four cases of inappropriate sexual conduct by priests in recent times. Three cases did not involve children or teenagers and the fourth, which did, was historical and the alleged perpetrator had since died. There were no Catholic clergy in prison for sexual offences, she said. - The Press April 2002.

Cardinal Williams was also interviewed on Radio New Zealand (Nine to Noon, 24/4/02). He was reassuring in his message, saying that priests know their responsibilities and their duty. He wondered how many priests there are in the US, and how many are alleged sexual abusers. He distinguished between pedophilia

and ephebephilia, implying the latter was where most of the allegations fitted.

Pedophilia is an attraction to prepubescent children.

Ephebephilia is an attraction mainly of males to teenagers who are pubescent.

Because of the acceptance of homosexuality, the term ephebephilia is said to be almost obsolete. While pedophile actions have no place in society, ephebephilia may have become one form of sexuality whose expression is acceptable to some. However, if coercively expressed, it is no more acceptable than any other form of sexual abuse. What is more, if the person has a religious role in the church, he or she has several issues, including older age (most likely), proper behaviour congruent with the power of their position, especial moral responsibility, especial sexual rectitude in the light of their vocation, and, in the case of Catholic priests, sexual abstinence in the light of their unique celibacy vows.

COSA knows of a case in this arena that fits the category of false allegations.

Some anti-gay lobbies in the US have equated the sexual allegations in the Catholic Church with gays in the priesthood, but the fallacy behind this argument has been attacked, leading one advocate to assert, tongue-in-cheek, a radical solution:

“If you want to use profiling to weed out pedophiles, there’s a far more effective way [than falsely targeting gays in the church - readers can appreciate that while aberrant pedophiles may sometimes be gay, this does not mean all gays should carry the can for the different set of bad apples, pedophiles].

“One hundred percent of sexual abuse by priests is committed by men. So is nearly all sexual abuse of children.

While it’s hard to tell who’s gay, it’s easy to tell who’s male. The ideal solution would be to ban men from the priesthood. The modest alternative would be to admit women. If conservatives were serious about protecting kids, they’d begin with that step.

- *‘Cardinal virtues, cardinal sins, The hypocrisy of blaming sexual abuse by priests on gays’ by William Saletan, slate.com, 24/4/02 at <http://www.msnbc.com/news/743068.asp?0na=x22684Q0>*

SEXUAL ALLEGATIONS IN THE HEALTH FIELD

New report for Medical Council about doctor-patient safety

According to a press article, an Auckland human rights lawyer Clare Bear has recently completed a report on doctors behaviour related to sexual matters, that concluded:

Between 350 and 900 doctors may be breaching sexual boundaries with their patients at some level, an independent review of the Medical Council’s policies and procedures estimates.

- *Call for policy changes, The Press, 11/2/02*
[According to the Auckland Women’s Centre page at http://www.womenz.org.nz/tmln/civil_union_b.htm ‘Clare Bear’ is a ‘bisexual Wellington lawyer’ (although the article says she hails from Auckland). And why her sexuality is of any interest is hard to reckon.]

The item’s expression ‘may be’ indicates guesswork, and, linked as it is, to a range of something like 250%, seems simply alarmist. We hope the ‘data’ do not affect people in the way exaggerated sexual abuse statistics did, to create myriad sets of false sexual allegations, all over the world.

The background to the report appears to be that the Medical Council - the body that registers doctors to practice; sets standards for education, conduct and health; and handles disciplinary matters - had asked for free and frank advice to help it improve its policies and processes.

The report made 160 recommendations in 26 categories.

Council president Tony Baird said many of the report's findings were 'very worrying'.

Medical Association chairman John Adams moved to reassure the public the following day that the vast majority of doctors behaved ethically. He noted that the issue of sexual boundaries did not just affect doctors, but all health professionals (The Press 12/2/02).

Unnamed Hastings doctor at centre of 'abuse row'

A Hastings doctor failed to detect, allegedly, sexual abuse in a 4 year old, carried out by a care-giver at a kohanga reo, because she didn't know the New Zealand guidelines.

Police reportedly advised that they hadn't been able to bring a case over the abuse report due to 'legal technicalities'.

Hastings District Health Board community paediatrician Russell Wills, who had later examined the boy and made the finding, appears to have been the complainant behind the finding over the doctor's alleged handling of the case.

The doctor was new to the country, but Commissioner for Children Roger McClay said there could be no excuse for such a blunder. No-one at the medical practice would comment (Press 13/3/02 p 9).

This sounds like a local dispute with political overtones, and the matter should be resolved.

FALSE ALLEGATIONS, FALSE SEXUAL ALLEGATIONS, 'NOT GUILTY' VERDICTS

Girl's unsupported rape, abduction charges may lead to her being charged

Police may charge the 16-year-old girl who claimed she was sexually abducted from a Porirua park and sexually violated by three men, a report said. She sparked a manhunt when she told police she was grabbed, forced into a car, blindfolded, sexually violated after being taken to an unknown location, and then dumped back at the park. The police, after

investigation, including interviewing two men, are not seeking anyone else, and were not satisfied the sexual violation took place (Press 15/1/02).

'Not guilty' of alleged violation of nephew

A jury took 30 minutes, a report said, to return a not guilty verdict in a trial where a man had been charged with sexually violating his nephew. The 49-year old man was discharged after a 2-day trial in the Christchurch District Court. - The Press 8/5/02 9/5/02

Woman prosecuted, fined, over false assault complaint

A woman made a false complaint to police in order to get back at her partner, the Christchurch District Court was told.

Sarah Maria Arps, 25, admitted making a false statement that assault had been committed. Constable Chris White, prosecuting, said that on November 1 Arps made a written statement that she had been assaulted by her de facto partner. The man was arrested soon after and charged with assault. The matter was set down for a defended hearing, but Arps failed to turn up at court, and later admitted she had made up the complaint in order to get back at the man. Arps, who contended in her own defence that she had taken the course that had been advised by the police, was fined \$250. The Press 3/4/02 p 8.

POLICE ANNOUNCE PACK-RAPE ALLEGATION WAS FALSE

A 16-year-old woman who alleged she was pack-raped in a central Wellington alleyway was alleging something that did not happen, police have found. They said the false allegation had resulted from a traumatic event which they declined to elaborate on. The police said she had not acted in a vindictive or obstructive manner, and that no charges would be laid. The Press 20/4/02 p 4.

Police not pursuing charges in sex investigation into rugby league team

Christchurch police will not lay charges against any member of the Cronulla Sharks after a lengthy investigation into sexual misconduct claims, said *The Press* (3/4/02 p 3). The investigation had been launched after the Sydney rugby league team's stay at the Racecourse Hotel in February. A female kitchen worker at the hotel, who has since left the job, claimed she had been sexually violated by several of the Sharks players. The head of the investigation, Inspector John Doyle, who traveled to Sydney with detectives to interview the team's members, said all of the parties involved in the matter had been spoken to, police had decided not to lay any charges, and "The matter is now at an end". He would not discuss any details of the investigation, but confirmed that the 19-year-old had not withdrawn her complaint.

Man, now acquitted, had retrial because of jury's awareness of previous rape charge

It was because the complainant during a 1997 rape trial revealed that police had told her of a previous rape allegation against the man, that a new trial was ordered for him. The witness had not been told the man had been acquitted of that charge (although it was irrelevant to the order).

The man, former Mangakino policeman Colin Andrew McLean, had recently been retried and acquitted, with the reasons for the previous trial abandonment still suppressed. Only when the retrial had been completed (Rotorua, April 2002), were the reasons allowed to be made public.

The jury at the 1997 trial had been directed by the judge to disregard the comments that they had heard in court about an earlier case involving the man, but that direction was found by the Court of Appeal to have been insufficient to avoid a miscarriage of justice. The Court of Appeal said in their decision that the judge should have abandoned the trial.

The earlier case in 1994 had involved a rape charge. As noted, he was also acquitted of that.

- *The Press* 30/4/02 p2; 'Ex-policeman not guilty of rape,' *Otago Daily Times* 20-21/4/02 p A27

Allegations retracted before trial resulted in man's conviction: he now seeks compensation

A man who faced charges in 1993 had been convicted and sentenced to 9 months, even although the step-daughter who made the allegations had retracted them to foster parents before he appeared in court. The court on that occasion had not heard this although the foster couple had already passed that information to Children and Young Persons' Service (CYPS).

The man served 5 months after pleading guilty to sexually violating the girl. He did that, he said, from not knowing what had happened: he said he was too drunk to remember, but thought he should rely on what the girl said happened, which included molesting her and his 1-year old child. The man's excuse for being drunk was that he had been drinking heavily after a close friend died.

The man's conviction was quashed last year and now the man is seeking compensation. The family has been split, with the man being disowned by some family members, and he has also been threatened by some in the community, according to his lawyer Rob Harrison.

According to 'new government guidelines', the man could receive around \$100,000.

CYPS knew that in subsequent years the girl made and withdrew allegations about four other men, said the report.

This included further allegations against the step-father in 1998, involving an allegation of sexually abusing her in 1998. Both the man and his wife were charged with attempting to pervert the course of justice over that, when they told the complainant to change her story. They hired a private investigator whose report prompted a review of the case. The girl ad-

mitted she made up the story because her mother did not have time for her any more. Police withdrew charges. The case was referred to the youth aid section with a view to prosecuting the girl for the allegations she made in 1993. She wasn't charged. - *Sunday Star-Times* 24/3/02 p A4.

Compensation for Wrongful Conviction and Imprisonment

"Following a Law Commission report on the issue, a new system for handling claims for compensation from people who have been wrongly convicted and imprisoned is up and running. A wider range of people can apply for compensation but with a stringent test of innocence before a claim is approved.

"People eligible for compensation are those who have had their convictions quashed on appeal to the High Court or Court of Appeal, without order for retrial, or who have received a free pardon. Other eligibility criteria include that:

- the applicant must have served a period of imprisonment; and
- claimants must establish beyond reasonable doubt that they are innocent, but they don't have to produce a new fact establishing a miscarriage of justice.

"The assessment process will be conducted by a Queen's Counsel. Firstly the Counsel will assess whether the claimant is "innocent beyond reasonable doubt". If that test is met, the Queen's Counsel then makes a recommendation to the Minister of Justice on the appropriate level of compensation payment. The final decision on each claim will continue to be made by Cabinet.

"The level of compensation will take into account such things as the way the prosecution was handled, the claimant's own conduct, and the nature of the losses suffered by the claimant. Although the Law Commission recommended that the new criteria be established in statute, it has been decided that the new system will remain within the Crown prerogative for the next 3 years."

- *Rural Bulletin of the Ministry of Agriculture and Forestry*, Feb 1999; http://www.maf.govt.nz/mafnet/publications/ruralbulletin/rbfeb99/rbfeb99-23.htm#P846_82316

The compensation announcement was even noted in the US, as the following item shows:

"On December 9, 1998, the New Zealand Ministry of Justice instituted a system to compensate people whose convictions of crimes had been overturned on appeal." - "Compensate the Unjustly Convicted" by Susan Sarnoff, DSW, in "Justice: Denied", at:

<http://www.justicedenied.org/compensate.html>

INTERNATIONAL NEWS RELATED TO FALSE SEXUAL ALLEGATIONS

US, all states: disciplinary rates of Psychology Boards seems to be a contested field

"When Ted Wendling did his December 1999 investigative series on psychology boards nationwide he found that New Hampshire had one of the highest rates of disciplined psychologists. As I am about to publicly prove, this relatively high rate had very little to do with actual protection of the public or maintenance of professional standards since the NH Board secretly protected some pretty horrendous practices. The NH Board obtained relatively "good" disciplinary statistics only because it regulated a small number of psychologists and conducted a couple of horrendous witch hunts which I am also in the process of exposing for what they really were."

This commentary, from a contributor to the witchhunt newsgroup (on 10/4/02), comes after a consumer-group 'Public Citizen's Health Research Group' assembled disciplinary action rates of state medical boards for most US States. However, in his experience the 'discipline' can be wrong:

"My own experience ... leads me to be very skeptical of disciplinary rates for another reason: boards may be sanctioning the wrong professionals (eg, protecting practices and practitioners favored by board members and

harassing those not in favor) without impartial regard for safety, efficacy, or unbiased ethical considerations.”

He may mean a board has disciplined a psychologist because the psychologist, with due care, supported a client's subjective reality of 'recovered memories of sexual abuse' but not their objective reality. If so the psychologist is to be commended and the board's actions questioned.

US: Man imprisoned for 15 years but exonerated of the rape by DNA, files lawsuit

Jeffrey T. Pierce, 40, who spent 15 years imprisoned on a rape conviction, and who was exonerated by DNA tests, has filed a \$US75 million (\$170 m) lawsuit alleging a police chemist conspired with a prosecutor to produce false evidence against him. "I'll prove that they knew I was innocent from the day they arrested me" he said. - The Press 20/4/02 p 9.

US (Mass): Lawyer specialising in the falsely accused is candidate for Governor

Barbara C Johnson, Advocate of Court Reform and Attorney at Law in Massachusetts, has announced her candidacy for Governor in the state of Massachusetts in the election on 5 November 2002. Her candidacy site is <http://www.barbforgovernor.com/>. She writes in her signature file:

The judicial system is very broken. It must be fixed.

There are four people who can do the job:

Everybody, Somebody, Anybody, and Nobody.

Everybody thinks Somebody will surely do it.

It is a job Anybody can do. But Nobody is doing it.

At least I'm trying. What are you doing?

She has galvanised others into action on the basis of her policies and independent platform.

Europe (Netherlands): landmark civil decisions against recovered memory therapy

Two landmark civil decisions, arising out of the sequelae of recovered memory therapy being equated with believable accounts of past trauma, in a case, have been made in a court in Arnhem, in the province of North-Brabant in the Netherlands, in February and March 2002.

The background, from translated reports, is that a woman entered therapy for serious psychological problems. Her therapist had put the woman under hypnosis, used dream analysis, repeatedly raised the possibility of incest, and told her that hitherto hidden memories began to re-surface indicating a history of sexual abuse by her parents followed by an illegal abortion. The parents were arrested and spent nearly 3 weeks in detention. The court then investigated the allegations, later ordering charges be dropped. However, she later launched a claim for 40.000 Euro against her parents.

That court case was heard up to late February '02. Dr R Bullen, professor of child and adolescent psychology at the Free University for Amsterdam, who investigated at the request of the court, deemed the daughter's incest story to lack credibility and the therapy to be very far below standard, and the woman's claim was denied. The parents' attorney, F. van Veghel, said this was a landmark decision.

Meanwhile, the parents had entered a reparation claim against the therapist, for 50.000 Euro. This led to the second landmark decision, a few days later in March: the woman's therapist, who was from Druten, was ordered to make reparation payments of 19.000 Euro to the parents of his client. The basis according to the Arnhem court was that his actions led the client to falsely accuse her parents of incest; the therapist owed a duty of care not just to his client, but also to her parents; and the therapist should have warned his client against the possibility of making false accusations. Attorney F van Veghel called this a spectacular breakthrough. - Reformatorisch

Dagblad, 6/2/02, 'Judge does not believe incest story'

Also, a commentator said the verdict would cause therapists to be more careful. Insurance companies reportedly had raised premiums for malpractice insurance. The Netherlands Institute of Psychologists (NIP) should condemn the therapy. The case involved a social worker who had encouraged ideas that caused this client to develop beliefs that gross violations involving incest and the forced consumption of fetuses had taken place in her youth. So while it had been thought that 'quasi helpers and halfwits' working in the professions did little harm, it wasn't so. "They are capable of totally destroying the lives of both parents and adult offspring". A spokesperson for 'Workgroup Fictive Therapies' said people who remember sexual abuse, seemingly out of the blue, nearly always were in therapy, and that it was hard to accuse therapists. They hide behind confidentiality and are shielded by the profession.

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