



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

CONGRATULATIONS

~ LYNLEY HOOD ~

author of

A City Possessed: the Christchurch Civic Crèche Case
1st prize, Montana Book Awards - History Section
(June 2002)
1st prize, Montana Medal for Non-Fiction (July 2002)
1st prize, Readers Choice Award (based on readers'
votes)

*A City Possessed gained 40% more reader
votes than any other entry*

Montana judges' comments:

'Extraordinary ... it could not be ignored.' 'With
great tenacity, Hood leads us to an understand-
ing of how the events in Christchurch could
have occurred'. 'The courage of [Ms] Hood in
pursuing the book's publication has given us a
narrative that, for all its controversy, makes it
a stand-out not just in this year but in any year.'

- *Witi Ihimaera*

Thank you

Thank you, Lynley Hood, for your courage, tenacity,
and honour, in creating such an important revelation
of the judiciary's shortcomings and limitations, and of
the Creche case injustice, and in finally bringing this
knowledge to the people of New Zealand and further
afield.

One of the problems of the day
is not so much the power of the
executive government as the
power of the great groups of the land

Lord Denning

No. 14 AUGUST 2002

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LIBEL PAYOUTS TO UK NURSERY CAREGIVERS

Maximum damages awarded to ex-accused because child sex allegations were untrue

A recent UK decision - announced around the world earlier this month - has poignant echoes for New Zealand, in the case's resemblance to the Civic case.

Of course, an inquiry into the Civic case has again just been rebuffed, but despite recent inaction here, there is a different story in the UK.

In this case, two former nursery nurses accused of child abuse at Shieldfield in Newcastle in April 1993, have each been awarded £200,000 in damages - the maximum allowable - after winning a libel case against accusers who would not let go of sex abuse allegations.

The action by the formerly accused, Christopher Lillie and Dawn Reed, was taken out against Newcastle city council, the four members of the review team, and the local Evening Chronicle.

In the decision, the city council's defence, of qualified privilege, succeeded: the court found the council had not acted maliciously in publishing the report. Not so for the report-writers, however: they were found guilty of malice, and damages awarded against them.

These writers - of the 1998 report in question - wrote things that flew in the face of the acquittal of the accused in a 1994 criminal trial, and that led to the hounding and persecution of the two exonerated-but-still-accused people.

At that criminal trial, Mr Justice Holland acted so as to prevent matters being left to the jury, because (said one report): 'having watched three video interviews with the key witness, he considered they pointed to Reed's innocence, and that the evidence against Lillie was dangerous and unreliable'.

Just after that acquittal, Tony Flynn, leader of Newcastle City Council (as he still is), told the media 'We do believe that abuse has taken place...we have dismissed them as employees'.

Judge Eady's oral summary of his 700-page report for the new decision, however, started with this: "I have found the allegations of child abuse against Christopher Lillie and Dawn Reed are untrue".

Dawn Reed responded with tears.

Judge Eady found that the two "merited an award at the highest permitted level."

"Indeed, they have earned it several times over because of the scale, gravity and persistence of the allegations." These had included being hounded and made to feel in fear of their lives (after widespread and lurid media coverage).

"What matters primarily is that they are entitled to be vindicated and recognised as innocent citizens who should, in my judgment, be free to exist for what remains of their lives untouched by the stigma of child abuse."

The trial had lasted 74 days, over 6 months.

'Review team' members acted with malice

The independent review team which produced the report for Newcastle City Council in November 1998 ('Abuse in Early Years') were identified by Justice Eade as guilty of libel, and to have acted with malice. However, he rejected the claim that certain named officers and the leader of the city council were maliciously motivated in arranging publication of the review team's report.

Focussing on the review team's report, he found it contained "untrue" allegations of the "utmost gravity" and the review team had "forfeited" the protection of qualified privilege because they were "malicious in the promulgation of their report".

"That is because they included in their report a number of fundamental claims which they must have known to be untrue and which cannot be explained on the basis of incompetence or mere carelessness," he decided.

The report's authors were Dr Richard Barker, social worker in an academic post at University of Northumbria, Newcastle; Roy Wardell, former director of social services for Barnsley Metropolitan Borough Council; Jacqui

Saradjian, clinical psychologist; and Judith Jones, senior social worker.

Richard Webster, a journalist and writer, and instrumental in bringing the case to justice (with fellow-journalist Bob Woffinden), has written that two of the report authors are documented as believing in satanic ritual abuse. They were Judith Jones - who, as Judith Dawson, was the social worker at the center of the 1989 Nottingham case - and Jacqui Saradjian.

Another expert's evidence that was savaged was Dr Barker's. One news report said:

... if a child denied she had been abused, he assumed she meant the opposite. This inverted logic, the judge said, was part of a pattern. If a child said she had been raped or penetrated with a knife, yet displayed no physical sign of abnormality, then, in the view of Reed and Lillie's accusers, 'the absence of physical findings does not mean that abuse has not taken place'. If a child said she had not been abused, that was 'terrorisation by the supposed abuser'.

Soon after Barker left the witness box, the Evening Chronicle withdrew its defence.

American expert William Friedrich (Mayo Clinic, Minnesota), as an expert witness, claimed the interviews were evidence of abuse. Having "reviewed "the documents and videotapes," he said, he believed that the 28 children cited in the libel trial had been sexually abused and that "the perpetrators were Lillie and Reed". However, it emerged Friedrich had not at that point SEEN any video interviews or transcripts. This led Mr Justice Eady to observe: "As things stand, Dr Friedrich's report is not worth the paper on which it is written."

Expert witness Maggie Bruck, who the judge considered the most important expert witness, said the interviews were some of the worst and most dangerous she had seen, using 'the full array of suggestive techniques to elicit allegations of abuse'.

Based on various reports, and links, such as available from <http://www.guardian.co.uk/child/story/0,7369,769002,00.html>.

The site <http://www.richardwebster.net/> is also very interesting.

THERAPY DANGERS

Hypnosis danger: 'certainty' over recalled memories does not necessarily mean accuracy - US

A new study suggests that hypnosis doesn't make people recall events more accurately, it just gives them more certainty that the mental events in their minds during the hypnosis, are memories of real events.

A belief appears to be present that hypnosis as a tool validates an event more than any other technique.

The bottom line is that memories recovered through any means, hypnosis or otherwise (eg, diaries and drugs), need corroboration before we can begin to take them as matter of fact.

The study was carried out by Joseph Green, of the psychology department of Ohio State University at the Lima campus, and Steven Jay Lynn of the State University of New York at Binghamton. The results were presented at the annual meeting of the American Psychological Association on 26 Aug 2001.

Therapists' selections are socially embedded despite their efforts - US

The thinking of psychoanalysts about their patients "is as 'culturally embedded' as the patients' thinking about themselves", says Renuka Patel, reviewing a new work described as 'a complex and fascinating book'.

This is a central idea of the book's author, Dr Jeffrey Prager, a practicing psychoanalyst and sociologist. The embedding of the therapists (or analysts) occurs despite their efforts to try to identify the hidden (unconscious) desires of their clients, and despite the therapists keeping a neutral stance.

The cultural embedment of therapists and clients currently includes frames of reference - such as having been abused, homosexuality, or being African-American: patients currently use these to understand their difficulties.

However, to help minimise embedments, Prager suggests that rather than therapists focusing on clients' narratives as many currently do, they should concentrate on each client's affect.

"Affect" in this sense is the EMOTIONAL CONTENT in the patient; this is a *quality*.

Modern culture often tends to try to uncover a quantity, or *effect* - ie, 'objective truth', reality, fact, something measurable. This tendency spilling over into therapy has helped spawn the recovered memory movement, Prager seems to be saying.

Prager says in therapy clients can focus on using memories as a way of accounting for her/his "feelings" and "bodily sensations", but the right way to do this is to do so as a way of knowing an inner world, and in conjunction with that, fulfil the desire to articulate it.

Prager also links the current cultural desire for 'objective truth' in therapy with reluctance to delve into underlying affects and feelings.

- *"Presenting the Past: Psychoanalysis and the Sociology of Misremembering,"* by Jeffrey Prager. Harvard University Press 1988. Reviewed in the *Journal of the American Academy of Child and Adolescent Psychiatry* (1 July 2001).

Retraction of 'infant memories' - Canada

Rowland Mak has confronted his past, including confabulated allegations of anal rape by his father when he was 2-3, which false conclusions started in therapy and led into him believing in a secret group that controls all of society.

Rowland told his story publicly at a Toronto conference in November 2001.

His father Adriaan Mak, now 70, had been accused by his son in 1991, to devastating effect, leaving him standing in the street, totally shocked. Since then, Mr Mak snr has worked assiduously on exposing issues in relation to false 'recovered' memories, and is notable in the false memory networks in the US and Canada.

The son's story of his difficulties included going to a therapist who suggested he look at

sexual abuse to explain why he felt afraid of his father.

The therapist said she had been a victim of ritual abuse herself, and knew a great deal about repressed memories.

Rowland Mak said his therapist crossed lines she shouldn't have. However, he is not angry at the recovered memory community: he sees it as just a colossal, well-intentioned, mistake.

- *'Man recants' Globe & Mail (Canada) 3/1/01 p A12*

Risk of unfairness if therapist unavailable in recovered memory cases - Ireland

The Irish Supreme Court on 5/7/01 delivered a decision in a case which said a person charged with very old offences on the basis of alleged recovered memory was entitled to seek to inform himself about every aspect of the therapy. If this cannot be done then there was no effective test or control of the mechanism of alleged recovered memory and the situation would be fraught with unfairness, it said.

- *Irish Times 3/9/01 p 18*

Donkey Philosophy 101

One day a farmer's donkey fell into an abandoned well. The animal cried pitifully for hours as the farmer tried to figure out what to do. Finally, he decided the animal was old and the well needed to be covered up anyway; so it just wasn't worth it to him to try to retrieve the donkey.

He invited all his neighbours to come over and help him. They each grabbed a shovel and began to shovel dirt into the well.

Realizing what was happening, the donkey at first cried and wailed horribly. Then, a few shovelfuls later, he quieted down completely.

The farmer peered down into the well, and was astounded by what he saw. With every shovelful of dirt that hit his back, the donkey was doing something

amazing. He would shake it off and take a step up on the new layer of dirt. As the farmer's neighbours continued to shovel dirt on top of the animal, he would shake it off and take a step up.

Pretty soon, the donkey stepped up over the edge of the well and trotted off, to the shock and astonishment of all the neighbours!

Life is going to shovel dirt on you, all kinds of dirt. The trick to getting out of the well is to not let it bury you, but to shake it off and take a step up. Each of our troubles is a stepping-stone. We can get out of the deepest wells just by not stopping, never giving up!

Shake it off and take a step up!

Also, the donkey kicked the crap out of the guy that tried to bury him.

Which brings me to another moral for this story:

When you try to cover your ass, it always comes back and gets you.

TRIAL OBSERVATIONS: a neutral observer of a New Zealand court

Although I had spoken to the defendant early on and had attended the depositions hearing, I had no firm opinion on his innocence or guilt. A father was accused by 3 of his 4 children of sexual offences when they lived in the family home about 30 years ago.

As usual, the trial began with the selection of the jury. This is a difficult introduction to the court process for the defendant. He is required to stand in his "own little box" for up to 45 minutes while the jury is selected from a very large pool. After selection, the defendant takes his place in the body of the court but separated from his lawyer. I wonder why he cannot sit with his lawyer as in depositions hearings. It seems to work reasonably well there.

The charges were read out. There were 15 in all. I felt this put the defendant on the back foot right from the start. To bombard the jury with 15 charges must have had an immediate

persuasive effect. How often do you hear that first impressions are important?

The Crown lawyer gave her opening address to the jury followed by the defence lawyer. Even at this stage it was becoming apparent to me that the Crown lawyer carried more charisma. Her voice was stronger and she always faced the jury as if she was addressing each one of them personally. By contrast, the defence lawyer was quiet, unassuming and was far from forceful in any argument he might introduce. He was the kind who tended to put a jury to sleep. This unevenness in ability between The Crown lawyer and the defence is an issue which should be seriously looked at. The Crown with its almost infinite resources always seems to be much better prepared.

A little while ago someone told me that the outcome of most cases is decided by the Crown and the defence lawyers before trial. I would be horrified if this was true. On the other hand such a statement, if true, wouldn't surprise me. It is relatively easy for either lawyer to adjust in such a way that they become ineffective. It would be difficult for the layman to pick this up.

By the afternoon session, it was time for the complainants to give their testimony. I was surprised to find the public were excluded. The judge has power to exclude and does so in specific cases. Notable among these are sexual cases involving children. He can in sexual cases involving adults also but I am mystified why this was done in this case. It could not have been because they did not wish to be identified. All complainants assembled in a room off the area where the public sat outside the courtroom. They frequently had the door open and occasionally filtered out in the public area. They were in plain view often. They all wanted to testify. It seems they were not coerced into doing so. They were in their 30s and upwards, and therefore mature adults. I was concerned to see laughing and joking after the testimony of at least one of the complainants. Because I did not hear what the complainants had to say I found that I could not form my own opinion about the in-

nocence or guilt of the defendant. The cynical side of me would say that this is exactly why I was excluded. A layman with some knowledge and experienced enough to not let emotion rule his decision may be in a position to be highly critical after a verdict. At the very least I cannot say that in this case, justice was seen to be done.

After lunch on the second day the mother was to act as a witness and so we were re-admitted. The marriage had dissolved in the 1980s and it was clear the mother had aligned with the children. The mother gave evidence that one or two of her children had spoken to her at the time and they had indicated that some kind of offending was taking place. She appears to have done little about it. What I find a little strange is that although most of the alleged offending seems to have taken place in the home, the mother seemingly was unaware that it was going on, even though it supposedly took place over a number of years. It seems that a complaint was made to the police by one of the children then, but was not acted upon. The fact that a complaint was made at this time would be a point against the defendant but that it was not acted on at the time would be in his favour.

It was then left for the Crown and defence to sum up. Here, the Crown lawyer clearly outshone the defence. The Crown lawyer spoke in a loud clear voice, was turned towards the jury, and had strong emphasis on key points. The defence lawyer was the opposite. He was very quiet and monotonic, was facing the front of the court and placed no real emphasis on anything. The judge completed the proceedings with his summing up, which I felt was reasonably fair.

The jury retired to consider its verdict. For observers this is a frustrating time. Frustrating because it is difficult to know just when a verdict will be given. What do you do while waiting? I wandered down town, had yet another cup of coffee, and then returned. The jury had apparently asked three questions and the judge, Crown, and defence were discussing the questions amongst themselves. It was

at this stage that the judge made this comment:

"Strictly speaking much of Mrs. X's testimony (the mother's) is hearsay, but it was useful to have her input!"

Hearsay of course because she was in part recounting what her children had told her.

I found this a bit disconcerting. I wonder if a defence lawyer had tried to admit hearsay evidence whether he would have had any success! Why didn't the defence lawyer challenge at least some of this evidence?

Because one of the questions related to the tenth charge, I realised that a decision was not too far away. I raced away to shift my vehicle parked in a limited time zone. When I returned I could see that the jury had returned to the courtroom. As I opened the door the court Registrar was asking the jury their verdict on count one. The jury returned a verdict of guilty. I noticed the defendants head lower. On all but one charge the defendant was found guilty.

I suppose at this stage the correct terminology is "prisoner". The prisoner was led away. The judge thanked the jury and dismissed them. Shortly, the lawyer and prisoner returned. The lawyer asked that the guilty man be released on bail in order to put his affairs in order. The Crown opposed this and the defence lawyer put up what was plainly a pathetic argument for his release. He clearly had not prepared for this and there was plenty of indication he did not know much about his client. The result was inevitable, and the judge remanded him in custody for sentencing, about a fortnight from that date.

Duly, a fortnight later, the judge handed down a sentence of nine years. All things considered the length of sentence did not surprise me, and was about what I thought was appropriate for the alleged crimes. The question is - did the alleged offences happen?

Because I was excluded from hearing all the evidence I cannot answer that question.

A number of people had written testimonials as is the custom when sentencing is due. I

personally doubt that they have much effect. The judge commented that the testimonials had been written recently and therefore did not represent the picture when the alleged (that's my word) offending took place some 25 years ago. Does this suggest that one should perhaps, each year, ask friends to write testimonials just in case you are brought to trial some time in the future?

I am left pondering what the parties concerned have gained or lost from this. One man is in prison for a long term. It has been said that the mother and all 3 complainants have already received a considerable monetary sum from ACC. The cynical side of me again might say that in this alone we have good reason to make a complaint. It is disturbing that since the reintroduction of lump sum ACC payments in April, sexual complaints have trebled.

It was the usual story for a trial involving sexual allegations. No-one saw anything. It was the complainants' words against the defendant's. Without doubt, emotion plays a major role. The jury came down on the side of the complainants. There is a slim chance of a male winning against such odds.

SEXUAL ALLEGATIONS: THE FALSE, THE MISIDENTIFIED, THE MISGUIDED, THE WRONGLY DEMONISED

Tennessee (US, historical): After 22 years, Clark McMillan was cleared of the rape conviction. Before Judge Chris Craft in Memphis Tennessee, DNA tests showed that genetic markers in McMillan's blood did not match those in semen left on the rape victim's clothes. The judge dismissed the man's 1980 rape conviction. It was a case of him being misidentified. *DNA tests clear inmate. ODT 16/5/02 p 9.*

Christchurch (NZ): A man wasted 43 hours of police time by falsely claiming that he had been attacked by two men, and sodomised, while he was out walking, trying, he said 'to memorise the names of factory premises for his job delivering pizza'. Inconsistencies developed in his story, and he eventually admitted the complaint was false. Judge Ray Kean

said: "I consider it to be a serious matter when people complain to the police about an offence, especially a serious one like this, and it proves to be false". The penalty was 180 hours of community work and payment of \$601 - for the medical examination costs. His sex allegations were false (*The Press 5/7/02*).

Saskatoon (US): City police officer John Popowich was recently given, in an out-of-court settlement, a full apology, and \$1.3 million. This was because of sex allegations against him (and others) being false. Accused in June 1992, he was exonerated by 1993, but it took 10 years to reach this outcome. In the case, phoney charges, 180 in all, were laid against himself, a couple who ran a daycare home, and six other people. They were allegations of committing ritualistic child sexual abuse, practising Satanism, and carrying out bizarre and sickening brutalisations and sadistic acts with children and animals, and the allegations constituted the Martensville case.

Reportedly, settlements for the other accused in the case are likely to rapidly ensue after Popowich's settlement.

However, the corruption that was found involved civil servants, and therefore concerns the government, and the public deserves a full explanation. It was not true, despite the Justice Minister's saying it, that the case could be explained away and merely used as an example where 'lessons have now been learned'. The case had gone ahead despite the fact that by 1993 a lot was already known from other states, about so-called satanic ritual abuse in daycare centers and the genesis of these kinds of bulk allegations. Most of these earlier cases foundered because of the lack of substantiation, and this case ought to have been brought to a rapid halt. The writer asked, 'Is the government covering something up?' He asked for voters to demand justice and a full airing of the case. (*'Province too eager to forget Martensville blunder', John Gormley, The Star, Phoenix, AZ, 21/6/02 p A2.*)

Auckland (NZ): Phil Bennett of Raumati South (near Paraparaumu), a presenter of the "Isaiah 61" prayer ministry, focuses on inner healing for people who have experienced painful memories or emotional distress, according to an internet report. The method is apparently linked to the "Theophostic Counselling" methods of Dr Ed Smith of Kentucky. This technique appears to revolve substantially around prayer.

'We don't have to have a diploma in counselling to be able to pray', said Mr Bennett. Asked if there were any hazards in this type of counselling, he said very few, with an exception. "If one is chosen to take on the more advanced ministry of dealing with such cases as satanic ritual abuse and de-programming, then that danger can be quite significant, as with all spiritual warfare." He described a chequered spiritual background, including being "hijacked" by the enemy and ... involved in freemasonry" (*'Proclaiming liberty to the captives'* by Julie Belding, *Challenge Weekly*, 31/10/01).

Dunedin (NZ): An affair between a 15-year-old girl and an 18-year-old boy, and the brutal sexual violation of a 5-year-old, are clearly very different behaviours and circumstances, yet they are portrayed as equivalent, under the term rape, by the media, argues Lynley Hood. In an attempt to try to talk some sense in the over-hyped world of commentary on human sexual behaviours, and their varieties and extremes, she notes also that male homosexual behaviour, which is legally accepted (for people of legal age), often leads, because of "society's fears and hatred of homosexuality, to a scapegoating of gay people, falsely stereotyping them as child molesters" - ie, to demonising. This lesson from the 1992 Civic case is as relevant now as it was back then, she said. Her comments came in the wake of the acquittal in Dunedin of former choirmaster, Raymond White, on 'historical' sexual allegations, but a guilty verdict for him over a recent incident with a youth. (*'Demonising any class of people is wrong'* by Lynley Hood, *Otago Daily Times*, 29/5/02.)

'ANY DISTURBED PERSON CAN WALK INTO A POLICE STATION AND MAKE FALSE ALLEGATIONS'

Willie Talau, 26, a provincial and national rugby league star, when aged 15 kissed and gave love-bites to a girl aged 13. With embellishments added to this, he was recently charged in a Wellington court with sexual violation and indecent assault. His Defence argued the other allegations did not happen. The jury - in 35 mins - found him not guilty.

Defence lawyer Dr Donald Stevens said no-one could substantiate the woman's story, which demonstrated the ease with which an innocent person could be tried for a serious offence without supporting evidence. He said "It's worrying that the state of the law in this country at the moment is that any disturbed person can walk into a police station and make a false allegation, and someone can be put on trial for a serious offence - it's pretty disturbing".

Talau, a father of four, whose wife and baby son were present throughout the four-day trial, said "It has been a terrible ordeal to face such a charge when innocent ...very hard on my family." Commentator Rosemary McLeod in "There but for good fortune" and Frank Haden in 'Teenage gropes are not crimes' independently concluded the same thing: the charges should not have been pursued. McLeod said that while one - or both - ended up with bad feelings, "the fact is that all such bad experiences don't deserve to end up in courtrooms. They are all about growing up, not crime."

Various NZ newspaper reports 31/5/02-9/6/02

SIGNS OF SANITY: A SENSIBLE 'SIGNS OF ABUSE' list to judge child behaviours

In conjunction with an article titled 'Imagining the Worst' by Nadia Lerner, the following analysis of child behaviours, identifying which are worrying and which not, was recently printed in Christchurch's The Press. This return to commonsense is a long way from the days when a boy touching his penis 'meant' he'd been abused.

To help parents and caregivers gauge what is "normal" sexual exploration in children, New Zealand and Australian agencies group behaviours in three categories.

Green light behaviour

This refers to appropriate behaviour that does not require parental intervention.

- 0-4 years old Wanting to touch other children's genitals. Asking about or wanting to touch a familiar adult's breasts or penis.

- 5-8 years Masturbating and/or using self-soothing touching. Telling "dirty" stories. Becoming more private about their own bodies.

- 9-12 years Using sexual language. Having girlfriends and boyfriends. Kissing and petting. Exhibitionism eg, "brown-eyes" or flashing among same-age children.

Orange light behaviour

These signal the need to take notice, and if the behaviours persist, seek advice.

- 0-4 years Demonstrating preoccupation with adult sexual behaviour. Pulling another child's pants down or lifting up girls' skirts against their will. Explicit sexual conversation using sophisticated adult language.

- 5-8 years Writing sexually threatening notes to other children. Engaging in mutual masturbation. Using adult language to discuss sex.

- 9-12 years Persistently expressing fears of pregnancy and/or sexually transmitted diseases. Behaviour that is uncharacteristic; eg, suddenly wanting to dress in a provocative manner or mix with new or older friends. Bullying persistently involving sexual aggression. Pseudo-maturity; ie, inappropriate knowledge of sexual, or discussions of sexuality in an adult manner.

Red light behaviour

Parents should seek advice from a health professional about these behaviours.

- 0-4 years Simulating explicit foreplay or sexual behaviour. Persistently masturbating; ie, active rubbing of genitals. Persistently touching the genitals of other children. Persistently attempting to touch the genitals of adults.

- 5-8 years Persistently engaging in masturbation, particularly in front of others. Engaging significantly younger children in sexual activity. Simulating sexual acts that are inappropriately sophisticated for their age.

- 9-12 years Persistently engaging in masturbation, particularly in front of others. Engaging in sexual activity such as oral sex or intercourse. Coercing other children of similar or younger age.

Source: Child at Risk Assessment Unit, Australian Capital Territory Community Care.

Reprinted from: Christchurch's The Press, 25/6/02 p B3.

PARAMETERS FOR FORENSIC INVESTIGATION IN SEX ALLEGATION CASES

The evaluation of people who may've been sexually abused: that's the subject that US Attorney Barbara C. Johnson - also currently a candidate for governorship of Massachusetts - takes up at

<http://www.falseallegations.com/evaluat1.htm#conflict>, where she has a copy of guidelines for this purpose. These were published in J. Am. Acad. Child Adolesc. Psychiatry, 1997, 36:423-442 and J. Am. Acad. Child Adolesc. Psychiatry, 1997, 36 (10 Supplement):37S-56S.

The paper and parameters may be seminal because the approach seems professional - more professional than seems to be the case in existing approaches in sex abuse allegations in New Zealand, for example - and because the paper draws on ideas from each end of the spectrum.

The approach used in the parameters is 'chronological', ie, they start with what the forensic assessor should do from the time they are first engaged as the evaluator in the case. The following list of the sections in the 'Parameters,' and an indication of some of their content, will give a brief idea of the approach, ordering, and extent of this document:

I. Role definition: Explain forensic evaluator's role to parents, other adults and systems, and the child, appropriately; Explain who has requested evaluation, purpose, who gets the report, and confidentiality issues; Clarify the forensic evaluator and the child's therapist should be separate individuals; Be prepared to testify in court; and Clarify payment issues.

II. Diagnostic assessment:

A. Obtain a history from parents, child, and other pertinent informants (12 points are itemised);

B. Consider requesting collateral information after obtaining authorizations, from protective services; school personnel and past school records; other caretakers, such as baby-sitters; other family members, such as siblings; and pediatrician police reports.

C. Process of the interview with the child, including mental status examination (13 points itemised).

D. Content of the interview with the child (10 points itemised).

E. Other procedures (Consider risks and benefits of drawing pictures; consider the risks and benefits of using anatomical dolls; there are contra-indicated items (hypnosis, amytal, facilitated communication, guided imagery, and either rewards or negative reinforcement of the child's statements).)

F. Psychological testing (4 points itemised).

G. Physical examination of the physically abused child (8 points itemised).

H. Physical examination of the sexually abused child (4 points itemised).

I. Other interviews (If possible: interview the person who is raising the allegation of abuse; and the alleged perpetrator. Do not interview the child and alleged perp together, except if the allegation proved to be false - in that case a careful joint interview could be made, keeping in mind the effect on the child.)

J. Consider an in-home evaluation by the evaluator or a child protection team member.

III. Possible explanations of denials of abuse (8 points A to H itemised)

IV. Possible explanations of allegations of abuse

A. A false allegation arises in the mind of a parent or other adults and is imposed on the child: *Parental misinterpretation and suggestion; Misinterpreted physical condition; Parental delusion; Parental indoctrination; Interviewer's suggestion; Misinterpreted parental behavior; Group contagion.*

B. The allegation is produced by mental mechanisms in the child that are not conscious or not purposeful: *Fantasy; Delusion; Misinterpretation; Miscommunication; Confabulation.*

C. The allegation is produced by mental mechanisms in the child that are usually considered conscious and purposeful: *Fantasy lying; Innocent lying; Deliberate lying D. Perpetrator substitution.*

V. Issues regarding the child's testimony: Competency (4 points itemised), Credibility (9 points itemised), Whether the child should testify (2 points itemised).

VI. Recommendations regarding placement and treatment (4 main points itemised).

VII. Written report (13 headings are identified that should be used, corresponding to the points I to VI).

The report also notes that its contributors have very likely a monetary interest in services discussed in the parameters, which is noted as a 'Conflict of Interest' as required under US law. A section of 'References' completes the document.

We hope some of this flexibility and innovation will filter through into New Zealand assessment and investigative practices.

GUTTER MEDIA HAVE A LOT TO ANSWER FOR

Two fathers sued network for libelous 'documentary', and won (Netherlands)

The Dutch NCRV-TV network has again offered apologies for its incest documentary "Hidden Mothers". An earlier apology had been extended to the Broere family and now the network has also settled with the Kok family. The family will receive payment for damages the amount of which has not been made public.

So reported 'Reformatorisch Dagblad,' reporting from Hilversum (Netherlands 11/6/02). Also, the network's program guide was to contain a further rectification, where NCRV-TV would publicly admit that it had been guilty of libel.

The background to this was as follows, according to the report:

In the documentary "Hidden Mothers", broadcast two years ago, a female member of the Kok family, Annemarie, had stated that as a child she had been ritually and sexually abused for many years. She alleged that her children had been either sacrificed in rituals or sold.

Although the father had been accused of incest, the family consistently maintained that Annemarie's stories were confabulations which arose as a result of her visits to a therapist who believed in recovered memory therapy.

The Kok family had pointed this out to NCRV and said that its documentarist, Verheul, had not made an effort to hear the family's side of the story.

In the case of the Broere family, whose libel decision came earlier, the network, in another segment of "Hidden Mothers," broadcast allegations from the daughter of a minister emeritus in the Reformed Church. She said her father, Rev G. Broere, had sexually abused her.

The network in broadcasting this segment on the Broeres had ignored the protests of the family. However, when the reverend started legal proceedings, the network began to take heed. In its retraction and apology in the program guide, the network had admitted the allegations against him had no basis in fact, either.

THERAPIST SUCCESSFULLY SUED RE CLIENT'S ALLEGATIONS (NETHERLANDS)

Damages awarded against therapist - 'incest past' may be totally fictive

The daughter believed she was systematically raped from age six on, with ritual murder of infants, but a court found effectively a therapist was guilty of directing her, as a client, to abandon control over her memories - false or imagined. The court ordered this therapist to pay the parents damages, for wrecking their lives with the false 'memories'.

The mother's and father's experiences had included both being arrested and interrogated for 17 days, and the allegations being subjected to a lengthy police investigation. This investigation was eventually abandoned, with a forensic psychologist, Van Koppen, reckoning that the chances were great that it was a total confabulation, and that it was clear that the accounts originated in the therapy room.

It was the parents' Defence attorney Coumans who advised the parents to bring charges.

The judgement has been described as making therapists responsible for the grief the daughter caused to the parents.

BOTH 'SIDES' STILL TO APPEAR IN TV PROGRAM

The Netherlands' "Zembla" TV program was to show the daughter describing her past and the parents expressing their disbelief and bitterness ("Sex Lies and Therapy," VARA/NPS ZEMBLA (Station Netherland), 21/6/02).

NETHERLANDS HEALTH COUNCIL TO REPORT ON FICTIVE MEMORIES

The Minister of Health, Borst, relying on the Health Council, is looking into the role of the therapist in the generation of fictive memories and will generate a report by the end of the year. This move was supported by Van Koppen. He said the Minister had to take matters in hand, because 'anyone without proper training may call themselves a therapist'. He said it was clear that this sort of therapy causes harm, even when no criminal charges are laid.

CONFERENCES AROUND THE WORLD, ABOUT ASPECTS OF FALSE SEXUAL ALLEGATIONS

Differentiating between true and false - enhancing rationality

Issues involved in differentiating between true and false allegations of sexual abuse was the subject of a 1-day conference for psychologists, attorneys, social workers and law enforcement personnel, held recently in Pittsburg (Carnegie Mellon University, 13/4/02).

It aimed to offer suggestions for incorporating knowledge into clinical practice. Other subjects to be covered were factors which affect the reliability of both children's and adult's testimony, the history of false memory, and information about the science of memory.

Rumour and irrational thinking often play in the genesis of false beliefs - including not only amongst pseudo-scientists and lunatics, but also amongst 'the rest of us'!

The goal was to give attenders an insight into how conviction rates can be improved by separating out false claims from genuine cases of abuse, thereby 'enhancing the ratio-

nality of verdicts in child sex abuse prosecutions and allowing for the exoneration of innocent people who have been caught up in the sex abuse hysteria which has swept our nation'.

A similar line-up and 1-day programme, but with some changes, was held in May in Canada (Law Building, University of Western Ontario, London, ON).

'RECONCILIATION' FOCUS FOR MELBOURNE AGM

A seminar and the Annual General Meeting of the Australian False Memory Association Inc is scheduled for Saturday, October 26th, at the Holiday Inn, World Trade Centre, 1-5 Spencer Street, Melbourne, Australia, with reconciliation intended to be a focus. Speakers will include Dr Yolande Lucire, from Sydney, Australia, and Mr David Hunter from Illinois. Registration is \$55.00 per person, and includes morning and afternoon teas and a buffet lunch.

Dr Lucire, PhD, MBBS, DPM, FRANZCP, is an experienced defender of those destroyed by the practice of Recovered Memory Therapy. She will speak on some medical and legal aspects.

Mr David Hunter, Chairman of Parents Against Cruel Therapy (PACT) is a full-time activist against exploitative therapy. To gain more background on his activities, visit <http://angryparents.net>. Three years of monthly newsletters are posted on this site.

For further information and the Registration Form, contact AFMA by phone 61 (from overseas) 1300 88 88 77 (in Australia). Accommodation is available at the Holiday Inn and at other nearby hotels.

SUBMISSIONS ON REVIEW OF NEW ZEALAND'S COURT SYSTEM

COSA posted members information, recently, about the opportunity to make submissions to the Law Commission's review of New Zealand's court system. As we explained, the Commission had published, and made freely

available, a position paper titled "Striking the balance," together with a booklet and framework in which to make submissions.

Although the COSA committee itself didn't representatively make a submission, several separate submissions were made by individual COSA members.

Submissions were due on 12 July 2002, but it is noted that the Commission is always open to hearing submissions from people who would like to make them.

The Honourable Justice J Bruce has now reported that the submission process has revealed problems, but only in terms such as were already expected.

Time will tell whether the Commission will take any heed of suggestions and ideas from people affected by false sexual allegations.

WILL NEW LEGISLATION CONTRIBUTE EQUALLY TO PROFESSIONAL, CLIENT, PATIENT- even taxpayer - SAFETY?

Proposals for the new *Health Professionals' Competency Assurance Bill* were announced on 21 December 2001 by Health Minister Annette King

The main proposal appears to be to separate the registration functions of the relevant professionals' organisations from the complaints and discipline procedures to apply to them. Apparently, the organisations are going to be legislated to retain their registration functions, but to lose the control of the complaints and discipline procedures applying to themselves. The current eleven health occupational regulatory statutes will be replaced with the single new statute, to rationalise health professionals under unified legislative umbrella/s. [The 11 pieces of legislation to be replaced are: Chiropractors Act 1982, Dental Act 1988 (Dentists, dental technicians, clinical dental technicians), Dietitians Act 1950, Medical Auxiliaries Act 1966 (medical laboratory technicians, medical radiation technologists, podiatrists), Medical Practitioners Act 1995 (MPA), Nurses Act 1977 (which includes midwives), Optometrists and Dispensing Opticians Act 1976,

Occupational Therapy Act 1949, Pharmacy Act 1970, Physiotherapy Act 1949 and the Psychologists Act 1981.] The bill will identify what are the tasks that can be practised only by certified, qualified and competent practitioners, and provide for certain declared quality assurance activities to improve the practice or competence of health professionals.

The proposals for the bill are the first in a suite of papers on related issues in response to the Gisborne cervical screening inquiry, and a related review by Helen Cull QC (it is available on the internet by going to http://www.moh.govt.nz/moh.nsf/wpg_Index/Publications-Index, then to one of their publications pages, and looking for 'Review of Processes Concerning Adverse Medical Events' of March 2001.

The separation of registration and discipline functions already seems to be underway in some respects (eg, through the use of the Health and Disability Commissioner office). The proposals, if adopted as seems likely, will take this direction further. That being the case, the proposals need to draw comment and input from a wide range of society, not just from PC-advocacy sources. The target idea, presumably of fair and effective appraisal, control, and delivery of health professionals' services, should always be kept in mind in the proposed legislation, so that it will not be capable of being interpreted in a way that could lead to degeneration of complaints into various types and instances of partisan, unwarranted, or 'politically-motivated' attacks.

The proposed Bill has been preceded so far by input from the health groups and other individuals and groups (eg, identified in a coded way, in Helen Cull's report). One focus found in these submissions is indicated in the Minister's memo:

[There is] Much debate and comment about discipline processes. [They] Want processes with Accident Compensation Corporation (ACC), Health and Disability Commissioner (HDC), registering authorities and disciplinary tribunal(s) to be streamlined to prevent delays and multiple investigation of the same complaint.

A very complicated diagram on page 116 of Helen Cull's report indicates the 'consumer perspective of [the current] complaint procedure against a health professional.' And indeed it looks a nightmare!

The Pharmacy Guild said in its newsletter that the proposed bill amounted to an ambush, although they are listed as having been consulted by Helen Cull. The minister's response to their complaints was tart. She said: "I can see that it [the changes presaged by the bill] is a challenge to the Pharmacy Guild's role - they have a position to protect. It is not for the benefit of health professionals, it is for the benefit of public health and safety" (http://www.pharmacy-today.co.nz/cover_stories/feb02_ambush.html).

The Homeopathic Council of NZ said the proposals amounted to "a timely opportunity to formalise the status of homoeopathy along with other complementary health modalities in New Zealand"

(<http://www.homeopathy.co.nz/presentation.htm>); but they are not in the list of groups included, so far.

The proposals are meant to ensure that health professional groups do not operate restrictive practices. The registering authority that is to be retained by the professional groups will include the authority and responsibility for verifying qualifications achieved under other jurisdictions.

Whether the Medical Council, who recently commissioned their own report on doctors (this was discussed in our last newsletter, May 2002), is likely to balk at the removal of discipline from their responsibility, is yet to be seen. The tide may be turning and irresistible for them and others.

The prescribing and controlling of doctors' and health professionals' regulation in terms of both expertise and behaviour is important, and if a replacement system is somehow more efficient and more up to date than the present system, this will be all to the good.

Doctors need to use a system that protects them from false patient allegations, and pa-

tients need systems that protect them from abuse from any wayward doctors.

The public also needs regulatory bodies that are not immured in historical ways of working, to the exclusion of modern changes, including doctors trained in university systems not traditional for NZ.

Psychologists and Psychiatrists will take the opportunity to make input to the HPCA Bill

A working party of representatives from the Psychologists Board, the NZ Psychological Society (NZPsyS), and the NZ College of Clinical Psychologists (NZCCP), would formulate a submission to the [Education and Health] Select Committee on the proposed Health Professional Competency Assurance Bill, according to their site in late April 2002 (at <http://www.psychology.org.nz/> on 11/4/02, under "February 2002").

Will they help force accountability into the system for COSA-type cases?

WHEN IS THERE A CASE FOR INTERVENTION IN AN OCCUPATION?

There is a **high case for intervention** in an occupation, to control it, if these four conditions are met.

- There is significant harm,
- The harm is irreversible,
- Risk is involuntary, and
- There is a high probability of harm occurring.

This is according to an analysis, made in June 1999, for the regulation of occupations in New Zealand, conducted by the Business Law and Trade Group of the Ministry of Economic Development (see "Policy Framework for Occupational Regulation: A Guide for Government Agencies...", at http://www.med.govt.nz/buslt/bus_pol/policyframework/diagram1.pdf).

There are several sets of circumstances that may fit a possible case for intervention, one of which is where the harm is irreversible and there is a high probability of harm occurring (as for the 'high' case), but the risk is voluntary.

A '**no case for intervention**' condition is defined as either where there is not significant harm, or where there is significant harm but it is reversible, and the risk is voluntary, and there is a low probability of harm occurring.

It could be argued that in relation to the persons using these that "A Courage to Heal," and certain kinds of counselling, including counselling that would not be prohibited under ACC guidelines, would often fit the 'possible case for intervention' category.

For people who get accused as an outcome of the counselling, falsely, their situation is worse, and would seem to mean that these aids and means would fit the category of 'high case for intervention'.

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

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