



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

HARM TO THE ACCUSED – FAIRNESS LACKING?

This month we draw out implications from two recent instances of sexual charges that failed to be substantiated, though in different ways with differing results. Neither 'protagonist' approached COSA, but the cases are relevant to our objectives, which include promoting public discussion and education on false sexual allegations. Principles can be applied across to cases whose details are not known to COSA.

First instance: Man discharged after Dunedin girl's allegations

A 39-year-old man was put on trial in a Dunedin court over what appear to have been false sexual allegations.

He was accused by a 12-yr-old girl of having sexually molested her from when she was 5, almost every day over a 5-month period, allegedly some time in 1996-97.

While the trial ended in a not guilty verdict, it was not before the newspaper named him under a headline that aligned itself rather closely with a 'guilty' view.

Our conclusion rests on the less-than-neutral heading used by the Otago Daily Times after the girl gave evidence, which read "Girl tells of sexual abuse by family friend" (11/02/03). This contrasted with the heading the paper used for the man's evidence the following day, which read "Accused says he was never alone with girl". This heading, in contradistinction to the one they used in the case of the girl, puts a distance between the two statements by using the word "says" as against "tells". "Girl tells" implies concrete certainty, in contrast to "Accused says" which implies an explanation that could be an excuse or lie. The dictionary reference confirms this.

Is it fair to be softer on an accuser than an accused? Not when safe treatment of the evidence given would have been easy. It should have been EITHER "Girl says family friend abused her" and "Man says never alone with girl", OR "Girl tells of sexual abuse by family friend" and "Man tells of never being alone with girl".

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Harm to the accused – fairness lacking?

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False rape claimant 'dressed down' – and fined \$750.

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In the end it was the man who was exonerated and the girl who, we infer, was found wanting. Did the newspaper reflect this? No! For its 'verdict' heading, the paper again distanced itself and resorted to understatement: "Accused weeps after jury verdict. Acquitted on sex charges".

The girl in this case must now deal with what may be a great state of confusion. If counsellors – and family and friends – have supported her, they also will have been left with contradictions to come to terms with, difficulties to process. While the accused man 'broke down and wept' at the verdict, the interlude in the man's life – if we presume the allegations are false – will have amounted to an unjustified assault on this aspect of his integrity. His 'breaking down' will have reflected some of the pain caused by the accuser's malicious allegations. He too will be left with difficulties, arguably magnified by the contribution of the newspaper. - ODT. 'Court Reporter': "Girl tells of sexual abuse by family friend" 11/2/03; "Accused says he was never alone with girl" 12/2/03. 'Staff Reporter': "Accused weeps after jury verdict" 13/2/03.

Second instance: Scout leader's suicide linked to abuse claims

Part way through January 2003, a 35-year-old former Christchurch scout leader, whose death on 21 January is now being investigated by the Coroner as a suspected suicide, was facing what the dead man had declared to be false sex allegations.

The city's main newspaper, The Press, helped make the allegations known to the public, by two stories, the second of which was printing under the curly heading "Scout leader faced sex charges". The heading deserves the epithet 'curly' because it turns out that no formal charges had been laid by the time of the man's death, although they were imminent, and because the paper named and pictured the dead man while choosing to announce the sex allegations against him.

This was done while nothing had up until then been public, and when also, clearly, the proper

means of ascertaining the truth or otherwise of the allegations – or even a public trial – would now never occur.

The news items said various sexual charges had been alleged by four teenaged boy scouts, two aged 15 and two aged 14, starting last October.

The man vowed to fight to clear his name, but did die – protesting his innocence, and leaving a large number of personal notes to individuals.

Blackmail letter emerges after man's death

Information has now emerged the essence of which is that in October, two of the teenage boys wrote a letter to the man trying to blackmail him. They signed this letter "The Conspirators", and demanded "money, alcohol, and pornography in exchange for not going to the police", according to a press report.

The initial posthumous unverified slurs towards the man were widely protested. So far as COSA is concerned, the matter was discussed privately, the circumstances could not be discovered easily, and the situation was delicate and tragic.

The Press seems by now to have tried to report the whole incident completely and fairly. Although it seemed callous to announce the allegations initially, perhaps they have served the public well, because if the matter had been put under wraps after his death, the story might never have unfolded publicly. The public now has a more complete overview of the circumstances, and how the teenagers made the allegations.

Some people may feel that as the man committed suicide, he must have been guilty. Committing suicide, we may imagine, would have been something to do with pain, fear, powerlessness, and hopelessness felt to be unbearable, with high levels of embarrassment at being targetted for such despised crimes. If a person is guilty, shame might be an element, but assuming that shame – from guilt – was the motive for the suicide is too simple an explanation: the reality of the depth of feelings after being falsely accused of sexual al-

legations is rather more complicated and destructive.

What can be noted is that the 3 months' delay between allegations arising, and a formal police interview – with an opportunity to be heard, is a fearful isolation from the process, for a defendant who is seeking a just outcome. The timing of the police search of the man's house on Christmas Eve raises concerns about intimidation and harassment and attempt to humiliate. And the pre-emptive decision by police to charge the accused immediately following the evidential interview, irrespective of any input made, is illustrative of the merry-go-round of systemic process overtaking good open-minded investigative inquiry.

There are fair processes, such as stated in the Washington Protocol for investigating child sex abuse allegations (www.wa.govt.wsipp/childfamily.pdf/childabusewrkgrp.pdf):

[sex abuse] investigations are to be conducted in a fair and objective manner and information should be obtained from all reasonably available sources, including suspects, when possible.

A well-liked, talented, and contributing community member has died. Did he stumble and fall on life's rocky path, or did a callous and unfair justice system or accusing individuals push him? After all, we don't even have the death sentence for murder.

"Leader's death upsets scouts", 27/1/03; "Scout leader faced sex charges", Picture: Roland Harding, 28/1/03 p A3. "Doubts cast on abuse claims" 14/2/03 p A3; all The Press by Matt Conway

FALSE RAPE CLAIMANT 'DRESSED DOWN' – and fined \$750

A 20-yr-old Australian woman was dressed down and fined \$750 by Christchurch District Court Judge Michael Green after she made a false rape complaint. He suppressed her name, but warned her if she did it again – which he said 'seems likely' – she could not expect suppression a second time.

The judge had seen psychiatric reports from her doctor and a specialist but said he did not accept that the difficulties she had were an excuse for her behaviour.

She had made allegations of sexual assault to various agencies, including the police, previously.

This incident involved a time when she travelled to Lyttelton on a bus, and then went directly to the police station. She alleged there that two unspecified Asian men had raped her. However, video surveillance of the area did not confirm what she said, and she admitted she made it up.

Judge Green told the woman: "False claims of rape do a disservice to all the other women who unfortunately have been raped. There is an impression, of course, that most complaints of rape indeed are false. By doing this you perpetuate something which is untrue and do a disservice to every other female who has suffered at the hands of someone else" "Rape complaint false" by David Clarkson, The Press 8/3/03 p A15.

Anglican Church compensates Louise Deans and others for abuse claims: In a previous Newsletter (#15, Nov 2002), we commented on the book "Whistleblower," by Louise Deans, in which she charged that the Church was at fault for not adequately disciplining and taking responsibility for the sexual behaviour of a man who was her theological supervisor and with whom she had an affair. We criticised her for only directing the blame at the Church, for her failure to take some responsibility in the matters. She and 2 others with similar complaints recently received compensation of \$8,000 to \$30,000 each for counselling costs from the Church. However, we stand by our comments, and await her publicising an evaluation of her (50%?) responsibility for private sexual activity. – "Anglicans pay" Press 6/3/02 pA5.

PITCAIRN ISLAND SEXUAL ABUSE ALLEGATIONS

New Zealand is currently co-operating with Britain to secure a legal basis here under our judicial system, for pursuing sexual allegations involving Pitcairn Islanders. Simon Moore in New Zealand has been appointed as Public Prosecutor.

Formerly, Pitcairn was under UK jurisdiction, but very interestingly the island also has its own internal "olde-Englishe" laws. Much of the island lifestyle and thinking is locked in a time warp, with values and morals of earlier times, relating to history, isolation, etc. The island has a very small population – less than 50. It used to simply have a resident who acted as a 'policeman'.

On the island it was a common belief that the age of sexual consent was 12 (or 13). Statements to this effect have been seen in print, so the belief may have been at large in the community. Some sources claim that the legal age of consent on the island is actually 16 by law: this possibly relates to the UK's formal jurisdiction of the island.

We are not aware of any public information on the charges, but 20 men are said to be implicated.

A member of COSA with a good knowledge of the island and its ways says he finds the allegations hard to tally with the devout strictness of the Seventh Day Adventism practised there.

The sexual allegations are documented as having arisen some time after a Constable Gail Cox from the UK visited the island to teach community policing, in 1999. At the time, one 15-yr old girl alleged she had been raped by a visitor from New Zealand; this case was pursued but did not reach court. A sexual abuse expert from New Zealand has been mentioned in connection with Constable Cox's visit or visits to the island.

The Pitcairn situation promises to evolve into a very interesting circumstance. The defendants may be extraordinarily ill-prepared by way of their distinctive value system and iso-

lation which are effectively cultural difference. Coping with the modern Westminster system is likely to be devastating for the whole island. If anyone has any further information, or requires support on these issues, please contact COSA'.

BLENHEIM MAN INSISTS ON HIS INNOCENCE RE SEXUAL CONVICTIONS

Stewart Murray Wilson of Blenheim, currently serving 21 years in Paparua Prison near Christchurch for serious charges of rape, bestiality, stupefying, ill-treatment of children, and indecent assault, is petitioning the Queen for a pardon. He said he had been forced to appeal to the Queen directly, having exhausted all other legal avenues since his 1996 conviction.

"Last June he asked his jailers for permission to hold a press conference at the prison, on the grounds of a House of Lords decision in the United Kingdom. That decision found that a policy of the Home Secretary to prevent investigative journalists from interviewing inmates in person was unlawful.

"The Corrections Department declined Wilson's request for a media conference on the grounds of security and the impact on his many victims. "... Wilson saw himself as innocent and therefore denied that there were any victims."

"Pardon plea to Queen" by Yvonne Martin, The Press 20/2/03 p A7

NEW SCIENTIFICALLY-ORIENTED MENTAL HEALTH JOURNAL

A group of people in the USA have started a journal called the Scientific Review of Mental Health Practice, recently. It seems to be positioned to try to tackle the loose, slack, wobbly state of the mental health industry, to try to steer it towards a basis that incorporates a more rigorous scientific approach.

According to their website, the journal will focus on 'objective investigations of controversial and unorthodox claims in clinical psychology, psychiatry, and social work'.

Paul Kurtz, Ph D, is publisher, and Scott O Lilienfeld, Ph D, is Editor and Executive Director. The Board of about 70 people includes many well-known people including Christopher Barden, Frederick Crews, Robyn Dawes, Elizabeth Loftus, Paul McHugh, Margaret Singer, Carol Tavris.

See www.scientificmentalhealth.org for their home page, with links to further details.

The Council we hope may do some good by education, in these troubled times, and to help ameliorate the problem where people believe in for example the massive repression of horrible sexual abuse. This misguided theory or kind of belief generally lies behind the 'historical' but false sexual allegations that affect some of our members.

BAD BELIEFS: WHY THEY DON'T EASILY DIE

The human brain is constructed so that it relies on belief to work for the person when the person's senses cannot ascertain something at that moment, according to "Why Bad Beliefs Don't Die" by Gregory Lester. This goes some way to explaining why even bad beliefs – like those exemplified in "A Courage to Heal" – continue to hold sway.

Lester discusses examples to show how human beliefs have evolved to stand for 'what-is-beyond-sensory-experience' at the time, and how beliefs oddly have survival value precisely only insofar as they ARE able to persist in the face of (some) contradictory evidence. (As in: I believe my car is in the garage even though, contradictorily, at this moment I cannot see it. Believing my car stays where I put it is generally a true belief; and this notion that I have (or belief), is of survival value because it saves energy etc.)

While the rational scientific part of us thinks bad crazy beliefs should die, "on a more fundamental level of importance our brain has no such basis," Lester says.

At the same time, beliefs do not exist in a vacuum, but are tightly interwoven, making changing a belief something that threatens ripple effects, or is threatening.

Lester concludes from this, that sceptics – who value rational explanations in preference to holding to beliefs that fly in the face of broad evidence to the contrary – must: ·be polite when confronted with people who won't drop their 'irrational' beliefs, ·learn to discuss the subject of belief itself – in its psychological and philosophical aspects, and how beliefs are interlocked and linked to survival, and ·appreciate how hard it is to change beliefs and how normal it is to find it difficult and act defensively. People don't mean to be mean, contrary, harsh or stupid when they are challenged: but they are in a fight for survival. De-escalate the fighting rather than inflame it, avoid sarcasm, don't be demeaning: skeptic's demeanour and behaviour must be as clean, direct, and unbiased as their data, he says. See www.csicop.org/si/2000-11/beliefs.html

NEW ZEALAND 'SEX OFFENDER' REGISTRY INITIATIVE

A Bill originating from a list MP for ACT, Debra Coddington, called the "Sex Offenders Registry Bill", has been drawn from a ballot for parliamentary consideration this year.

The explanatory information below may be of interest to some readers.

Sex Offenders Registry Bill Member's Bill

The purpose of this Bill is to establish a registry of persons who have been convicted of serious sexual offences, and to include mechanisms to keep the registry up to date, in order that the police have reliable information available to them at all times on the whereabouts of sex offenders. This will assist in the investigation of such offences, and may speed up the elimination of possible suspects when sex offences are committed. The registry may also play a part in deterring such offences and protect the most vulnerable members of the community, our children. In short, the Bill is a measure to protect public safety in an area of serious public concern.

Similar initiatives have been taken in overseas jurisdictions, including the United Kingdom (although not involving the actual establish-

ment of a registry as such) and the Canadian province of Ontario. This Bill draws on their legislation. A fundamental principle underpinning the Bill is that the protection of the privacy of sex offenders must give way to the protection of the public from such offending, that is, in this area the community's interests must come first. But the Bill maintains a balance between these competing concerns in various ways: for example, it applies only to the extent necessary, it does not apply to offences and offenders in the distant past, it strictly limits access to the registry which should be seen as a crime fighting and law enforcement tool, and it provides a means by which offenders can have erroneous information corrected and be struck from the record in the event that they are pardoned.

Clause 4 sets out definitions for the purposes of the Bill. They include a definition of "sexual offence", which is any offence set out in sections 128 to 144C of the Crimes Act 1961.

Clause 5 defines "sex offender" for the purposes of the Bill. The Act will apply to persons who are serving or waiting sentences for sexual offences (or would be serving a sentence of imprisonment but for several circumstances set out in the clause) or have been found not guilty by reason of insanity and cannot yet be regarded as no longer presenting a danger to the safety of the public. It will also apply to persons who in future are convicted of sexual offences or found not guilty by reason of insanity, or who are cautioned by the police in respect of a sexual offence that they admit at the time.

Clause 6 provides that the Act binds the Crown.

Clause 7 requires the Minister to establish and maintain a sex offenders registry.

Clause 8 sets out the details to be recorded in the registry for every sex offender to whom it applies.

Clause 9 requires offenders and institutions responsible for them to provide written notification to the police of their names and home addresses (and any changes).

Clause 10 recognises that notification of information to the registry cannot be left to voluntary compliance.

Clause 11 provides that information on a sex offender must be maintained for the life of the person in the most serious cases, and for 10 years in other cases. That must be amended in the case of a pardon.

Clause 12 provides for an offender to request in writing the information recorded, and for its correction.

Clause 13 provides a general protection of information in the registry against disclosure.

Clause 14 provides that key provisions apply despite anything to the contrary in the Privacy Act 1993.

Clause 15 provides for regulations for details.

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