



COSA NEW ZEALAND INCORPORATED
CASUALTIES OF FALSE SEXUAL ALLEGATIONS

PITCAIRN ISLAND COMPLAINANT CLAIMS POLICE ENCOURAGED FALSE ALLEGATION

An alleged victim of sexual abuse on Pitcairn Island claims a New Zealand police officer asked her to make a false allegation against her alleged attacker.

The Police Complaints Authority has received a letter of complaint from a woman on the island.

The complaint comes at a time several women have withdrawn their co-operation from the police investigation into the Pitcairn sex allegations.

"They said they had insufficient evidence against one particular person and can I make up a false allegation against him. I said no, I could not do that and in fact I wanted to withdraw my statement from the cases they were trying to set up" the woman said. "... They have hurt all of us deeply in the way they have gone about this, and so I'm lashing back the only way I know how". In a separate letter, her husband said he heard the officers ask her to make a false statement. "That was utterly and truly disgusting."

Pitcairn Public Prosecutor Simon Moore said he was surprised by the complaint but the prosecution was on track. – Herald 22/3/03 p A8 'Pitcairn case complaint'.

The complainant said her complaint was about 3 officers, a New Zealand officer and one from the UK who both asked her to make false allegations, and another one from the UK who allegedly harassed her. She sent a copy of the complaint to Kent Constabulary.

A legal party including the three officers subject to the woman's complaint, arrived at the island about 4 April 2003. The island's mayor Steve Christian balked at letting them onto the island, stating that the officers should be suspended until the complaints had been investigated. However, after consulting public defender Paul Dacre, they were brought on shore. Their reception was "anything but warm". Herald 7/4/03 p A9 'Tension rises on Pitcairn ...'

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Pitcairn island complainant.

Claims police encouraged
false allegation.

Auckland writers & readers festival.

Update on the Civic 'creche'_case.

Battering away at dismantling the wall.

Discretionary politics stalls Civic Case.

Court system review, and severing
of privy council ties: Some linkages.

Court system review: Some politics.

Review of the court system:
Nuts and bolts.

Male teacher-to-student interaction
confidence compromised.

Dna tests exonerate man after
19 yrs prison.

3 out of 4 recent attack allegations -
arrests of complainants for being false.

Florida leads with tough stance.

\$10,000 fines possible for
false allegations.

E T H I C S

E Every case

T all the Time

H be Honest

I act with Integrity

C have concern with truth

S for what is at Stake is

your reputation

your self esteem

and your inner peace.

On the subject of withdrawn complaints, Simon Moore said: "It happens in lots of police investigations that people make complaints and do not want to go to court."-Press 19/4/03 pA6

COSA would challenge that such complainants' aversions to being tested on their claims may indicate significant inaccuracy or indeed falsehoods in their complaints.

The women who have withdrawn say they had not known police planned to charge the alleged offenders, often extended family members. One said: "My reasons for withdrawing are simply that this whole mess could destroy our tiny community".

Police began investigating allegations of sexual abuse on Pitcairn in 1999. Charges ranging from underage sex to child abuse have been or will be laid against several men. The islanders have complained of the investigations taking 3 years and tainting them all.

AUCKLAND WRITERS & READERS FESTIVAL

15 – 18 MAY 2003

HYATT REGENCY

Two sessions of special interest to readers of *A City Possessed*

Sunday 18 May Subject: CH-CH: STEEPLES AND DRAGONS

11am – 12 pm

Regatta Room B, Hyatt Regency

Christchurch is a city of contrasts – on the one hand 'English', refined and orderly; on the other, dark and chaotic. Garden City residents Sue McCauley (*Life on Earth*) and Fiona Farrell (*The Hopeful Traveller*) join Lynley Hood (*A City Possessed*) to read from their books and discuss how the city has influenced their work.

Chaired by historian Lyndon Fraser.

Ticketek \$12/door \$15

Sunday 18 May Subject: CRIME & PUNISHMENT

2.45pm – 3.45 pm

Regatta Room A, Hyatt Regency

'In the end only one person is telling the truth' (*Child Abuse in a Country Town*, David Leser). Award-winning Australian journalist Leser and New Zealander Lynley Hood (*A City Possessed*) have both bravely addressed prominent cases of child abuse. What is involved in tackling this hyper-explosive issue? What strains are placed not only on the subjects but also on the authors?

Chaired by family psychiatrist Jan Reeves

Ticketek \$12/door \$15

A COSA member writes:

The Christchurch Press published an article by Mike Crean about Sir Thomas Eichelbaum, "Doing justice to rugby" (27/7/02 pA7). It was mentioned that although he is an avid sports follower, Sir Thomas still finds time for reading – "anything he can get his hands on" – in fact.

It is interesting to speculate that perhaps he may by now have read Lynley Hood's *A City Possessed*, in which his ministerial report is aptly described as narrow and flawed. The reasons why are clearly shown. If the former Chief Justice has laid his hands on that book he would surely have to wonder if the 400 hours he says he spent on the inquiry into the Christchurch Civic Childcare Centre investigation was long enough after all.

UPDATE ON THE CIVIC 'CRECHE'[1] CASE BATTERING AWAY AT DISMANTLING THE WALL

A report has said Christchurch Civic 'campaigner' Winston Wealleans and fellow-supporter Roger Keys have given up on their endeavours to expose and help correct the miscarriages of justice around the Civic or 'Ellis' case. Their withdrawal was owing to Peter Ellis not getting computerised in the period since his release from jail in Feb 2000 (Campaigners give up on Ellis over net dispute, Amie Richardson and Deidre Mussen, SST 20/4/03 p A11).

Winston Wealleans, contacted by COSA, said Ms Mussen contacted him on correspondence on the Civic between Justice Minister Goff and the Canterbury Criminal Bar Association. She asked how to reach Peter Ellis, and at this point that Mr Wealleans told Ms Mussen that Peter Ellis and he were not much in contact, and the reason, Peter not being computerised. Ms Mussen had then made an item out of something domestic.

The lack of contact with Mr Ellis did not affect the principles of the case, Mr Wealleans said. He and Roger Keys had no regrets about what they had tackled and the work done, but they had given it their best shot and gone as far as they could go, on shoestring resources. Peter Ellis and the injustice to him, and what happened to the women, too, was why they did what they did. Should anything new come up, they would still do their bit. Their wives' recourse had been in the industrial arena, and was completed years ago.

As COSA sees it, it is others who are now positioned to attack 'The Wall' – the political resistance to the truth – and the ramifications of the case, in various ways.

Who are these people? First of all, as the Star-Times' report showed, members of the Canterbury Criminal Bar Association. This eminent group recently wrote to the Justice Minister adding their voice to calls for a Royal Commission, but he rather curtly refused.

Next, writer Lynley Hood also is currently adding poundage to the battering and dismantling operation, by way of words and correspondence with Mr Goff, including an application under the Official Information Act. Starting in Sept 2002, she has been asking for exactly what Secretary of Justice for the Ministry, Dr Warren Young, said or wrote, that showed differences between him and Chief Legal Counsel for the Ministry, Val Sim. Ms Hood understands there to be some differences because of Mr Goff's remark, at the release of the Ministry's report (dated 21/5/02, released Aug 2002), that Sim and Young "possibly ... have somewhat different perspectives on the whole case".

As of 31/3/03, Mr Goff had only answered Ms Hood's question obscurely. Ms Hood also has discovered Dr Young was by late 2001 reviewing the Justice Ministry's handling of alleged miscarriages of justice, because they were of ongoing concern to the Ministry. She also found that in 2003 the Ministry circulated papers on processes for handling alleged miscarriages of justice, including an outline of points in her book. We await news.

Close observer N.M. Gillespie, whose daughter was amongst the accused in 1992, also recently contributed fresh input. In a letter in the SST (also 20/4/03; p C9, headed "Inquiry needed"), this writer wondered why Mr Goff would not act. The answer suggested by the writer was that it was because 3 complainant children had close relatives who were MPs.

Most recently, Dunedin lecturer James Allan contributed a strong piece to the Civic debate (Sunday Supplement 10.45am 27/4/03). Associate Professor Allan teaches law, especially constitutional law and the New Zealand Bill of Rights Act, at the University of Otago.

Part of his argument is to sidestep the establishment-created impasse in the Civic case. He does this by taking as incontrovertible, that – on the basis of what any open-minded member of the public who has read Lynley Hood's *A City Possessed* can see – Ellis is innocent and "absolutely positively should never have been convicted" at all. By this Allan displaces the establishment's attempt to claim as incontrovertible that the only path for justice can be new evidence. Allan's position also amounts to saying that that argument should no longer be let lie. Then he does a partial dissection regarding, or application of a position about, rights, as they apply to the case.

He implies the establishment is weighing an innocent man's injustice against 'what it will look like for a large number of people if the decision is overturned'. Then, with a cringe perhaps, they rest their righteousness on the status quo by virtue of what I would suggest is a kind of 'greatest good' argument (John Stuart Mill). But Allan well identifies that actual egg is still mouldering on many faces, ie:

- those responsible for interview techniques;
- huge numbers of people who believed in the idiocy of recovered memory syndrome;
- the judges who screwed up;
- the therapists who had their own agenda;
- the complainants who received very substantial ACC payouts;
- the politicians of all stripes who have been cowardly; and
- the people contributing to and inside the hysteria about ritualistic child abuse.

The weight attributed to Mr Ellis should be increased to tip the balance and right a truly awful moral wrong, we read. Putting it in a case-to-case perspective, Allan says the case for Ellis is much stronger than that for David Bain. Ellis should be pardoned immediately and compensated by way of money. If this doesn't happen, cynicism about all the PC rights talk will be reinforced, he says.

DISCRETIONARY POLITICS STALLS THE CIVIC CASE

Ms Hood currently may end up asking Phil Goff why he has ignored the report-co-author whose views are somewhat contrary or unfavourable to the received view of the Civic case, ie, contrary to the status quo. This is the second time this has occurred in review or appeal of the case. In 2001, the proper concerns of Professor Graeme Davies of Leicester University, UK, relating to the inquiry of Sir Thomas Eichelbaum, were ignored and nullified. He wanted to know: -whether there was crosstalk early in the Civic investigation; and, presuming that there was, -which parents or people were involved, and -did any cross-talk relate to what the children alleged in early interviews. Sir Thomas in his report nowhere sought to pursue those questions, and Mr Goff simply ignored their import in the final analysis.

Mr Goff has even misrepresented this, according to a correspondent to the SST Richard Christie, who quoted a letter he had received from Goff: "Both Sir Thomas and the two international experts on child evidence he appointed independently reached the conclusion that convictions on those charges on which Ellis was found guilty were safe". Mr Christie authoritatively disputed this, saying Davies said no such thing, and the other expert, Sas, wasn't asked to comment on the convictions' safety (letter, SST 3/11/02).

So Mr Goff tended to defer to Val Sim while minimising Dr Young's position; and Mr Goff and Sir Thomas tended to defer to Dr Louise Sas while ignoring Professor Davies'. Given his rhetoric when outside of the government, indicating he wasn't happy with the Civic case, Mr Goff's lack of such a merry attitude or anything effective, now, indicates a lack of intestinal fortitude.

In Mr Goff's favour, we note that at least he showed a little spark when, in August 2002, he pointed out, with at least a tinge of fierceness, that Val Sim and Dr Young had differences. Fat use he has made of this so far, though.

Under a woman leader, New Zealand will not go to war, but will firmly support efforts at peacekeeping. Over the Civic case, however, 'peacekeeping' will not be sufficient to quell civil dispute or halt calls for justice until something decisive and healing is put into action.

What now?

There is currently a wall between free reality on the one hand and political constructions of false realities on the other. Pink Floyd approached the subject of The Wall decades ago for a musical hit. They meant the Berlin Wall, which, contrary to then-current predictions, fell sooner than expected. Here's to the same in the present-day for the Civic case. Certainly with the spinoff Pink Floyd Experience in Christchurch now, we could hope that artistic omens are doing their bit towards this end, and the sooner the better.

COURT SYSTEM REVIEW, and SEVERING OF PRIVY COUNCIL TIES: SOME LINKAGES

Submissions to the 2nd stage of the 3-stage review of the court system to be completed this year under the Law Commission, have closed. The final stage will be the Commission's printed recommendations to the government.

The Commission's discussion document 'Seeking Solutions' gathered options for change on some topics, but on one very significant item, the severance of New Zealand from the Judicial Committee of the Privy Council, it presents the much-heralded move as a fait accompli. Only on smaller – if important and wide-ranging – matters, was input sought. For example, one option listed in the document regarding tribunals is for them to adopt a common system of rules and procedures, but another option listed is for the tribunal to keep their existing diverse ways under the status quo.

It may be that the government saw value, when it knew that some changes would flow from any disengagement from the Privy Council, in having the results of a contemporary court system review, at hand.

The National Business Review has been one newspaper paying attention to all this. Recently, it loudly wondered about not only any new Supreme Court's structure, but also its personnel. It asked the Attorney-General's office (under A-G Margaret Wilson) to name likely appointees to any such court, with a view to critically examining these persons' merits for that potential stage. The AG's office declined, saying the NBR only wanted to poke fun at them. NBR for its part derogatorily referred to any future team as if they would be Ms Wilson's picks, and a 'Star Chamber'. This term referred originally to a British court established in 1641, but now means any oppressive tribunal.

Generally, Parliament, and the Executive (the latter meaning the Governor-General, Ministers of the Crown, government departments and agencies) must keep out of the Judiciary's

affairs, under the principle of the separation of the three branches of government. However, co-operation between all three would surely be essential for setting up a new Court. Anyway, politics is almost unarguably influencing our judiciary in a large sense now, so politics will have influenced who might be in line for possible selection to the new Court. These same tendencies already present would influence any 'wild cards' that might be used to create any eventual form for a Supreme Court package.

In the end any Supreme Court and the system may be coloured by Labour, especially by its Political Correctness and PCError, which many commentators see as considerable.

COURT SYSTEM REVIEW: SOME POLITICS

There is an enormity to our possible detachment from the Privy Council and an apparently-contemplated concurrent overhaul of the court system. Removal of Britain and the powerful notion of 'the Crown' – with its implications not only for our Governor Generalship, for example, but also for the Treaty of Waitangi – from our actuality and our symbolism, as isolation from the Privy Council would do, has met with some opposition. This has come from some Maori groups and individuals, and others for whom tradition has high appeal, and nationalism, and offers of special status in any replacement, have been used to try to quell this type of objection. Protests have come also from some who argue, more intellectually, that staying with the Privy Council as a final court of appeal will let NZ keep its access to a bigger and better pool of legal minds than the local legal pool. The latter is said to be too small, too clouded by politics, and too limited in experience.

Undoubtedly real and earthy business is going on at various levels to create both the forms of a revised court system and a new Supreme Court, and appoint the latter's personnel. The fear is that these will be open to political influence. Currently it is Ms Wilson's protestations to the contrary that fall on deaf ears: although she speaks almost as if her

mouth is open and she is only a ventriloquist's dummy politically jerked from off-stage.

The Christchurch Civic case needs an inquiry, and there are other injustices in somewhat similar cases, but no-one will acknowledge this. If the system entrenches this further, under a new Supreme Court that draws from the previous wellspring of personnel and precedent, God help us, because it won't.

N.B. The Judicial Committee of the Privy Council had 86 appeals in the last year for which figures were available, 2001. A few various cases were from the UK itself, and the others comprised cases from 18 different countries, 16 of which were countries in the Atlantic, 13 of which were in or adjacent to the West Indies. The other two countries were Mauritius (the island near Madagascar in the Indian Ocean), and New Zealand in the Pacific. NZ had 16 cases completed. Only 2 were successful. Of the 14 unsuccessful cases, 11 were heard and dismissed, and 3 were dismissed/withdrawn without a hearing. New applications received were 14. At the end of the year 13 cases were pending.

Most of the New Zealand cases that go to the Privy Council's Judicial Committee are said to be commerce-based. For the lesser number of criminal cases, a single individual seeking to rectify an injustice may lack sufficient resources, when a commercial body may comfortably be able to meet the cost of such appeals.

REVIEW OF THE COURT SYSTEM: NUTS AND BOLTS

The value of suggestions on nuts and bolts issues in "Seeking Solutions", varies. Some suggestions if implemented could have adverse effects for people affected by false sex allegations. For instance, there is a suggestion (under "Victims of Crime") that the criminal courts allow for more privacy in giving evidence. However, adopting that could mean that a person making sexual allegations is taken seriously over something ridiculous alleged in private when it needed to be public to subject it to some sensible reality-checks.

The closed-court sessions are bad enough now – current exclusion of the public from complainants' evidence, upon which the jury substantially makes its decisions, means that essential parts of the evidence in a trial are currently not available to public scrutiny.

Another suggestion amounts to increased state-funded compensation for victims. But it could be argued that – in some but not all instances – increasing funding for people alleging crimes, while these attach the person to the prejudged "victim" status, goes parallel with a propensity for false sex allegations to occur. The availability of payments to "victims" via ACC certainly has demonstrated this possibility coming true.

The suggestion that further discounts apply for early guilty pleas sounds like extending plea-bargaining. This is scary because accused people have been known to agree to pleading guilty to lesser – but still false – sex charges out of stress or financial-resource limitations.

Some nuts-and-bolts suggestions in "Seeking Solutions" are positive. These include

- moves to improve access to justice for disabled people,
- instituting a state-coordinated legal information network,
- using videos and audio technologies in court,
- using information technology to improve access to information/processes,
- piloting self help kits for legal representation, and
- using more restorative, therapeutic, and mediation models.

Yet other suggestions that can be seen as potentially positive are:

- Encouraging alternative billing methods and/or cost models for lawyers' and court fees, and providing further information to prospective clients about costs (and a fee survey is suggested, as is an agency to monitor and publish legal service costs).

- Reforming the tasks and responsibilities of various officers of the court system with a view to streamlining personal service to users of the court system.
- Reducing the number of jury trials so that more can be heard by a judge alone.
- Ensuring early and complete disclosure of the Crown's case.

The formal submission stage of the Review of the Court System is over. After the Commission reports, the government will no doubt take the lead politically to bring us a new system, under a star-chamber or not.

MALE TEACHER-TO-STUDENT INTERACTION CONFIDENCE COMPROMISED

A Christchurch letter-writer has pointedly remarked in a published letter that even when an innocent teacher is found not guilty in court where sexual charges are involved, the teacher's career is likely to be over ('Male teachers', G.T.W. Hendry, *The Press*, 5/4/03 p A8). As Mr Hendry said:

Male teachers need to realise that if they are accused and suspended, and the case reaches the police, innocence will not save their career. Irrespective of the outcome in court, no school will find it prudent to re-employ them.

Mr Hendry said that the nurturing ideal that male teachers be appropriately friendly, or familiar, with children, to the extent of touching them, without the safety of another teacher being present, was only theoretically possible at present.

This was responding to the publicised views of the very respected, recently retired, Christchurch principal Jack Morris, that male teachers should be enabled to safely have appropriate physical contact with pupils. Mr Morris mentioned that pupils liked to be given a high five, a rub across the head, or an arm around the shoulders from a teacher, and to have a teacher participating with them. It was up to the schools to move to create the ap-

propriate environments for this sort of thing, Mr Morris said. There was a problem if, sometimes, male teachers felt they needed to wait for female colleagues to help a pupil, exemplified perhaps by a girl in distress lying prone on a sports field. - Male teachers reluctant to touch pupils, by Ryan Keen, *The Press* 24/3/03 p B2.

The COSA editors back Mr Hendry, and believe that discussion should occur in schools, and in society, as to how to institute proper support for these male teachers. We want their safety enhanced, and to see the school environment changed to enable schoolchildren to interact safely in general contact, and sometimes closer, appropriate specific contact, with any teachers.

OTHER NEWS ABOUT TEACHERS' CASES

A teacher from Timaru, who was convicted in 2002, was recently ordered a new trial on several bases, including that a clinical psychologist had given too much credence to the complainant's abuse claims. "It was not the place of the doctor to express an opinion about whether the abuse had happened" the court said. - *Timaru Herald* 11/3/03.

An individual, described as "A former trainee teacher", who was charged with indecently assaulting a 12-year-old boy he invited home for a "drinks" party, and with unlawful sexual connection with him, has been found not guilty on both counts. The man was discharged by Christchurch District Court Judge David Holderness. *The Press* 20/3/03 p 3.

Comment: Obviously the person's apparently rather questionable (if not-illegal) behaviour - having a young male student over for a "drinks party" - despite being exonerated of any charge, did lead to the loss of the person's status as a trainee teacher.

DNA TESTS EXONERATE MAN AFTER 19 YRS PRISON

Another USA case of a man being exonerated of rape, after spending many years in prison as if guilty of the charges, has been revealed.

Dennis Maher spent 19 years in prison, after 3 rape victims identified him as their attacker.

In 1983, right after his conviction, Maher had told the court it was a travesty of justice.

Maher was exonerated recently after DNA results from two boxes of material, including clothing of one of the victims, found in the Cambridge, Boston courthouse's basement in 2001 by a law student reviewing the case, showed he wasn't the culprit in two of the three cases. In the third case, although there was no DNA evidence either way, he was exonerated because authorities no longer believed he was the assailant.

Maher, 42, formerly an army officer and paratrooper, blamed Lowell police, and his former attorney, now dead.

He said he was too overwhelmed by his newfound freedom to feel anger at his years of incarceration. He also said that he had a message for the women: "What happened to you really happened, and I hold no grudges against you."

DA Martha Coakley expressed regret but denied sloppy police work. The Press 5/4/03.

3 OUT OF 4 RECENT ATTACK ALLEGATIONS BRING ARRESTS OF COMPLAINANTS FOR BEING FALSE

A news item in mid March showed that no less than THREE women in Tauranga had been separately arrested over false allegations of a man, or young men, attacking them in or around Tauranga this year. - 'Attack victim' charged [note the attribution of the term 'victim' to someone unmentioned, by the quote marks], The Press, 20/3/03 p A5.

Two of them were nurses, one working at Tauranga Hospital and one at a rest home. The other allegation involved a woman who said she was attacked on her front door step.

The false allegations were identified in the wake of detectives launching an investigation to find out if the four complaints regarding these attacks were linked.

This must mean that 3 out of the 4 complaints, with certain commonality, were false.

The item said the allegation made by the woman at home was an unrelated case.

Detective Sergeant Todd Pearce said police were pleased to be able to allay some fears in the wake of the supposed cluster of supposed attacks. He hoped publicity surrounding the 3 arrests for false claims would deter others from wasting police time.

We do need a register of sexual predators, but perhaps we also need one for false complainants!

FLORIDA LEADS WITH TOUGH STANCE \$10,000 FINES POSSIBLE FOR FALSE ALLEGATIONS

"Department of Children and Families plans \$10,000 fine for false child-abuse reports" by Shana Gruskin, Staff Writer Sun Sentinel (Fort Lauderdale), 18 Mar 2003

Child-welfare officials in Palm Beach County are dusting off a state law and soon will begin slapping fines of up to \$10,000 on people who chronically make false reports to Florida's abuse hotline.

The tactic, which has been selectively used throughout the State, is one of a number of initiatives introduced by the Department of Children & Families interim administration to relieve some of the burden on its overwhelmed investigators.

The expectation is that lower caseloads will lead to better investigations and fewer workers getting burned out.

... DCF Secretary, Jerry Reigler, fired the district's top two administrators and temporarily replaced them with new appointees Vern Melvin and Alan Abramowitz.

"It's a morale issue for the protective investigators" Abramowitz said, announcing plans to go after false reporters. "We've got to let the PIs know their time is valuable."

So far, Child advocates appear to cautiously support the idea.

“Those folks who abuse the system and call in false reports, they’re draining resources from those children who need protection,” said Gerry Glynn, a child advocate and director of clinical programs at Barry University’s School of Law in Orlando. “I have no problem with the department actively going after folks who are using the hotline to harass or abuse or do something to former spouses, neighbors, whomever,” he said. “... The balance is, will it discourage people from reporting?”

Abramowitz said the department does not want to deter people from reporting suspected abuse. No-one making a good-faith report, even if the investigator determines the allegations to be unfounded, will be pursued, he said.

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