

Children in State Care

Commission of Inquiry

Report

as to a Particular Matter



2005

28 October 2005

To: Her Excellency Marjorie Jackson-Nelson, AC, CVO, MBE
Governor of South Australia and over the State of South
Australia and its Dependencies in the Commonwealth of
Australia.

May it please Your Excellency:

Pursuant to the appointment of me, Edward Picton Mullighan
QC, to constitute the Commission of Inquiry established by the
Commission of Inquiry (Children in State Care) Act 2004,
pursuant to section 4(2) of the Act, I have the honour to
present a second report regarding a particular matter of public
importance, which report is contained in the whole of the
succeeding pages bound in this volume.

E.P. Mullighan QC

BACKGROUND

A matter of public importance arose in early March 2005 which has been investigated by the Commission and in the public interest requires a special Report before the completion of the Inquiry.

The terms of reference and the purposes of the Inquiry are set out in the Interim Report dated 12 May 2005. They include an inquiry into and examination of allegations of sexual abuse of a person who at the time of the alleged abuse was a State child in State care and to report on whether there was a failure on the part of the State to deal appropriately or adequately with the matters giving rise to the allegations.

The Inquiry was opened on 9 December 2004. The terms of reference and purposes of the Inquiry were widely published in the media in South Australia and nationally and the nature and extent of that publicity was mentioned in the Interim Report (Chapter 12). The Inquiry was established by the South Australian Parliament and active support was given by the Minister for Families and Communities, Mr Jay Weatherill, the Leader of the Opposition in the Parliament, Mr Rob Kerin, and the then Speaker of the House of Assembly of the Parliament, Mr Peter Lewis.

Mr Lewis was active in the acquisition of information about protection of children and child sexual abuse in particular. Three volunteers worked extensively in his office at Parliament House and elsewhere. Their identities were widely publicised and are well known. One of them is Dr Moles who is a former academic in law in tertiary institutions. I understand that he interviewed some of the persons who provided information to Mr Lewis and the other volunteers. All of them were aware of the publicity circulated by the Commission requesting persons with information relevant to the terms of reference to come forward and assist the Inquiry.

After the work of the Commission began, I requested Mr Lewis provide to me all of the information which he and the volunteers had received, together with all files and documents which had been provided to them. Mr Lewis indicated that the information, files and papers had been given to him in confidence and he would seek the permission of the informants to provide to the Commission what had been requested.

I was eventually informed that what was required was in the possession of Dr Moles at his home. The records and other materials in his possession were received by the Commission on about 21 December 2004 which was shortly before the last working day of the Commission for that year.

When the Commission resumed in the New Year, the materials obtained from Dr Moles were examined over time. No information had previously been provided by him as to the nature or importance of any of the information.

In early March 2005 there was considerable publicity in the media in South Australia regarding allegations made by Mr Lewis about various matters. It was reported in The Advertiser newspaper on 2 March 2005 that he claimed that information gathered by him and his staff, presumably the volunteers, had helped force the establishment of the Inquiry. It was suggested that one murder victim and another person who was found dead in allegedly suspicious circumstances had provided information to him and his staff about homosexual paedophiles.

It was also alleged that the two deaths were linked in some unspecified way and that the two men had provided information about alleged homosexual activities of a man they believed to be a politician. The allegations were widely published in the media including nationally.

Veale Gardens, which is adjacent to South Terrace in Adelaide, has been mentioned in evidence given to the Commission by many persons as a “beat” for homosexual men seeking contact with each other and with children.

In The Advertiser newspaper published on 3 March 2005 it was reported that Mr Lewis said he was told of a journalist and a magistrate being involved in a paedophile ring. It was further reported in that newspaper that a man had said that he had met the politician, an unnamed magistrate and a journalist and one of the dead men at Veale Gardens.

Wide publicity in the media continued over the ensuing days but without further reference to a magistrate.

By the time of the publicity the Commission had been approached by about 400 persons who alleged that they had been sexually abused as State children or who had other evidence relevant to the terms of reference.

THE ALLEGATIONS

S.5(5) of the Commission of Inquiry (Children in State Care) Act 2004 (the Act) provides that I must in the conduct of the Inquiry and in my report on the outcome of the Inquiry take all reasonable steps to avoid the disclosure of information that may identify, or lead to the identification of an alleged victim and perpetrator of a sexual offence against a child and a person who has provided information about such an offence, if the interests of justice so require. S.10(1) of the

Act authorises the use of a code to avoid disclosure of information which may identify or lead to the identification of any person. Consequently I have used codes when referring to particular persons and I have at times not mentioned particular dates even though they are known to me in an attempt to avoid the identification of persons. However, I have mentioned events in their correct sequence.

I mention the following allegations in their entirety because they received widespread publicity at the time and they are of the utmost gravity.

The Sunday Mail newspaper published the following on 6 March 2005 on the front page under the following headings.

Sex-abuse inquiry told of son's claim
Judicial Officer Accused

The second mentioned heading was in large type on the front page alongside which appeared the following:

Exclusive
Kevin Naughton
Matt Clemow

A serving member of the South Australian judiciary "passed around" his teenage son in a pedophile ring, an inquiry into child sex abuse will be told.

Statements-of-interview by two former female public servants, which have been forwarded to retired

Supreme Court judge Ted Mullighan, tell of the teenage boy being taken to sex parties for men.

The allegations come just days after State Parliament was rocked by explosive claims from Speaker Peter Lewis that an unidentified MP has been implicated in parklands homosexual activities.

The women - a registered nurse and social worker - have been described as "courageous and reliable" by legal academic Dr Bob Moles, who helped them prepare their document last year.

The document was forwarded to the Mullighan Inquiry on December 21.

A spokeswoman for Mr Mullighan - who has been appointed by the State Government to look into allegations of sexual abuse of children under state care - confirmed on Friday the document which names the serving judicial officer had been received.

She said the women's claims would be investigated as part of the wide-ranging inquiry which is scheduled to provide an interim report in May.

In the detailed document, the women also speak of widespread sexual abuse of children - including then 10-year-old Snowtown murder victim Clinton Scott Trezise - in state care facilities.

On page 6 of the newspaper the report continued and included the following:

From Page 1

The women were employed by what is now the Department of Family and Community Services in the 1990s.

“We have extensive knowledge of the system which involves using some young people for the sexual gratification of the staff within the system,” the document says.

“(Some) staff also supply the young persons to their contacts within the extensive pedophile network which has been allowed to develop within SA.”

The document says the women have “extensive documentation and tape recordings which are available to substantiate their claims”.

Referring to the judicial officer’s son, the women say he told them he had been abused by the pedophilia ring.

“He (name withheld) was an attractive and articulate young man,” they say in the document, which has been seen by the *Sunday Mail*.

“At times he said that there were sex parties involving lawyers where children or young people were made available to them for abuse.

“He told us that he was a victim of that abuse”.

On Thursday the nurse told the *Sunday Mail*: “The boy told me he hated his father for taking him there (the sex parties).”

Another set of documents the women are prepared to supply to the Mullighan Inquiry includes a record of a “process interview” conducted with the boy.

A process interview is the record of conversation held by a senior youth practitioner as part of mandatory notification procedures, when they become aware a child may have been sexually or physically abused.

The nurse, then working as a senior youth practitioner, said this week the process interview was documented in the early 1990s and forwarded to her superiors.

She said on Thursday “nothing was ever done about it”.

The boy described to her how his father took him to a private home in North Adelaide where other men dressed in togas were drinking and taking drugs.

The boy had told her one of the men rubbed the boy’s skin and remarked “he’s a nice chicken” before taking him to a nearby room.

The woman described the boy’s stories as “something out of *I Claudius*”.

“He hated his father for taking him there.” she said during the week.

“The man who had taken him to a room was a judge, based interstate.” The boy told the woman the incidents had started happening when he was 12.

“He didn’t fit the normal profile of a streetkid or anything from that subculture,” the nurse said.

“He never caused us any trouble.”

and later:

Dr Moles said in his personal summary of the women’s stories that the two women “have suffered terribly over the last 10 years because they could not and would not tolerate the abuse to which the

young people within the system were being subjected”.

Dr Moles, a former University of Adelaide law professor and author of *State of Injustice*, interviewed the two women last year and says his personal summary of their story is just the start.

“This is only the beginning of what will evolve into an extensive document detailing the abuses which have occurred in the system,” he said.

“The women are prepared to supply (to the Mullighan Inquiry) detailed documents and tapes including the process interview with the judicial officer’s son.”

Dr Moles has taken details and prepared affidavits from about 60 people, most of which have been sent on to the Mullighan Inquiry.

“The story of the judicial officer’s son is just part of a string of cases that convinces me that this, the sexual abuse of wards of the state, involves people of power and influence,” he said.

“That a young boy says he was passed around a pedophile ring by his father, what can you say?”

Evidence from various witnesses identifies the boy and his father. I refer to the boy as A. Evidence received from A and his father indicates that neither Dr Moles nor journalists sought any information or explanation from A or his father before the publication or gave either of them the opportunity to do so.

Allegations were published in The Australian newspaper on 7 March 2005 as follows:

Judicial link to sex ring

Michelle Wiese Bockmann

...

They told Dr Moles that the boy's father was a magistrate involved in a pedophile ring, who "on a number of occasions" more than 13 years ago "took the boy to parties and made him available for sexual favours".

...

Neither of the women referred to in the newspaper report had contacted the Commission prior to the publication. It was misleading to report that "the document which names the serving judicial officer" had been received. Among the material which had been obtained from Dr Moles on about 21 December 2004 were some computer discs. There were no documents which referred to the allegations about a judicial officer. Examination of the computer discs revealed information from two women appears to have been recorded by Dr Moles after what is described as a one-day interview with them on 15 August 2002.

This record relates to many matters apparently disclosed by the two women who were workers in the Department for Family and Community Services as it was then known in 1992. In this report I shall refer to it as "the Department". Their names are not mentioned in the record.

The allegations contained in the record include alleged paedophiles and victims which are in the course of being investigated by the Commission. This report only relates to the allegations about A and his father.

The passage relevant to the matter which is the subject of this report is as follows. I set out in full the relevant passage in the record made by Dr Moles on the computer disc:

["A"] - the son of magistrate [name recorded]. A was an attractive and articulate young man and unlike so many of the others we get in there. At times he said that there were sex parties involving lawyers, where children or young people were made available to them for abuse. He told us that he was a victim of that abuse. We think that sometimes he offended to get sent in here, so that he could have some time away from it all. The tragedy is that like so many others he found that he was moving from one situation of abuse to another. On one occasion when he was out, he became involved in a high speed car chase with a police car, which was said to have rammed their car into a wall. Another young man in the car was killed and A suffered serious brain damage. He is now in the Julia Farr hospital.

This report does not contain the names of the two women, but it did mention A and his father by name.

The Commission commenced an inquiry into the allegations on the day of the publication of them in the Sunday Mail newspaper. Dr Moles was contacted and indicated that he would seek permission from the two women to disclose

their names. He subsequently informed the Commission of the name and telephone number of one of the women I shall refer to as "B". Contact with her was promptly made. Dr Moles advised that he did not know the surname of the other woman but forwarded her first name. Subsequently I was informed of her surname and I refer to her as "C". I was also informed that her whereabouts were not known to Dr Moles or to a television media journalist who had information about her. I was not able to take evidence or receive any information from her until 10 October 2005. She contacted me a few days earlier and said that she had been informed by Dr Moles that I wanted to see her. I refer to her evidence later.

I took evidence from *B* on 15 March 2005. The delay was occasioned by her poor state of health and the requirement that her medical practitioner be present. At that time she was suffering very severe chronic fatigue syndrome and from stress. I am informed that the diagnosis of post traumatic stress disorder has been made. At times she has had difficulty in giving evidence but has related the events upon which the publications in the Sunday Mail newspaper appear to be based.

B had completed training as a registered nurse and in social work. She was employed as a residential care worker for a period of two years by the Department. After a brief period

of training she commenced work at the South Australian Youth Remand and Assessment Centre (SAYRAC) at Enfield in 1991. She was appointed to the permanent position of youth worker in the Department late in 1992. She ceased work early in 1994 because of work related stress.

Records of the Department and the South Australia Police indicate that in late March 1992 *A* was arrested and charged with armed robbery and was admitted to SAYRAC where he remained for a period of about four weeks. The admitting officer was *C*. Information in the files of the Department indicates that the circumstances of the offence were very serious. The crime was pre-planned and committed by a number of persons. A medical practitioner was contacted and requested to attend a particular house. Upon doing so the medical practitioner was robbed and a firearm was used although it was possibly unloaded. It appears that drugs and money were taken from his person.

In evidence to the Inquiry *B* said that she was on duty one night at SAYRAC when she spoke to *A*. He was in his room and through an intercom told her that he wanted to speak to her. He said "I've got something I have got to talk to you about". She permitted him to leave his room and smoke a cigarette. He told her that his father had taken him to a place in North Adelaide where men were dressed in togas

and young boys were wearing fig leaves. He said it was “something like out of I Claudius”.

According to *B* he told her that there were trays with white powder and alcohol. Men were eating grapes. One man rubbed his face and said. “You are a nice chicken”. *A* told her that he had a soft drink and felt “woozy”. He lost consciousness and when he awoke, he was bleeding from his anus. He told *B* that the man who spoke to him and presumably sexually abused him, was a judge from interstate whom he named. There was no other person present when *A* made this disclosure and in particular, *C* was not present.

B said in evidence that she made a written report of the incident which she described as a “process interview” which she gave to a person at SAYRAC in a more senior position. She kept a copy of that document but says that it was stolen from her home in 2004. Neither the original of the document nor a copy has been located.

B revealed the name of the person to whom she gave the process interview record. He is no longer employed at SAYRAC or, I understand, by the Department. This document is not within files of the Department which relate to *A*. *B* said that no action was taken by the Department in response to her process interview report. I have not

considered it to be necessary for present purposes to proceed beyond the first attempt, which was unsuccessful, to locate this person as the existence or otherwise of a process interview report is a collateral matter in view of the conclusions I have reached.

C was employed by the Department as a social worker and later in 1984, as a residential care worker at SAYRAC. She held different positions at times but was working at SAYRAC in 1992. At the time A was admitted she was acting Centre Duty Officer and was in charge of SAYRAC during the shift when A was admitted. She confirmed that B was employed at SAYRAC in the older boys' unit at the time A was admitted.

I mention an aspect of her evidence about the night A was admitted into SAYRAC. According to C she was contacted by a police officer who told her that A was to be admitted. He said that A was extremely dangerous and very violent and she should be careful with him. Also she was told not to believe what A said as he was a pathological and chronic liar. C was surprised about this information being given to her as information of that nature was not normally given.

Given A's background to which I refer shortly, the giving of this information and warning to C by the police appear

appropriate and sensible. According to both *B* and *C*, *A* was quiet while at SAYRAC.

C had little to do with *A* after he was admitted. She says that on one occasion he told her that a lawyer who was engaged to be married to his aunt was found dead in his home because he had allowed homosexual friends to use his home when he was away. *A* said that the lawyer had returned early and found that there had been something to do with “snuff movies” at his home which he was going to disclose. *A* did not disclose how he had this information. At no time did *A* say anything to *C* about the alleged conduct of his father which *B* says he told her. I understand that a “snuff movie” is a film which shows the death of a person due to criminal conduct.

Later it will be seen that *B* revealed this disclosure by *A* about the lawyer when she was interviewed by police but she says that she was merely repeating what *C* told her.

After *A* was released from SAYRAC he was placed at the Gilles Plains Assessment Unit which is a residential facility for children run by the Department. He did not have any further contact with *B*. I also received evidence from *A* to which I shall refer in some detail later. At this stage I mention that in his evidence he said that while he was at the Gilles Plains Assessment Unit he attacked a residential

care worker with a billiard ball in a sock because he believed that the worker had behaved inappropriately to a child in care and that he was then taken to the South Australian Youth Training and Assessment Centre (SAYTAC) at Magill. There is no record of this incident in the files of the Department regarding A which have been provided to me.

It is reported in records of the Department that A refused to stay in the unit on a Saturday night during April 1992 and was arrested at the Royal Adelaide Hospital while attempting to steal drugs. He was taken to SAYTAC. About six weeks later he was released on bail by the Adelaide Children's Court, on condition that he reside at the Sturt Assessment Unit which is another residential facility for children run by the Department.

This evidence is relevant to A's credibility in one of two ways. If the billiard ball incident did not occur and A was admitted to SAYTAC for the reason given in the records of the Department he has not been truthful about the billiard ball incident. If that incident did occur it shows that A was again violent when at the Gilles Plains Unit.

A was severely injured in a road accident during August 1992 and thereafter was hospitalised and eventually a resident of the Julia Farr Centre. He suffered severe

injuries including a closed head injury. The charge of armed robbery and other outstanding charges were heard by the Adelaide Children's Court about four months later. He was released on a bond without conviction. At this time he continued to suffer severe disabilities.

I shall return to *A* and mention salient features of his history in due course.

B accepted *A* as a plausible person when he made the disclosures to her and says that he appeared calm and rational.

I received further evidence from *B* in the presence of her medical practitioner on 22 March 2005. She gave evidence about many other matters which are the subject of continuing investigation by the Commission. Her health was poor and the taking of evidence was brought to an end after a little less than an hour. She expressed concern about the publications in the Sunday Mail regarding *A* to which I have referred and said that she was extremely distressed.

The health of *B* continued to deteriorate and I was not able to see her again until 28 September 2005 when I again received evidence from her in the presence of her medical practitioner. On this occasion she explained how the

information about what A told her in 1992 came into the possession of Dr Moles. Her mother contacted Dr Moles about an unrelated matter because of his earlier involvement with the University of Adelaide. B spoke to him on 15 August 2002 and disclosed what A had told her. C was present and she also provided information to Dr Moles about other matters.

In July 2004, B was interviewed by a police officer at the Wakefield Street Hospital where she was an inpatient. She related to him what A told her on the night which I have mentioned at SAYRAC. She told him that A had said to her that he had something really bothering him and he needed to tell her. He said that he was in what he described as something out of the theme from a Roman orgy, "little boys with men in togas. The little boys had vine leaves or leaves over their dicks. More of the boys had cloths". B told the police officer that A said that one of the men was a prominent politician whom he named and another man who had a particular type of business on a road which he named at a suburb of Adelaide, but whose name he did not know.

I have not mentioned anything which could identify either of these men as it is not possible to put the allegation to one of them and the identity of the other is not yet established. B also told the police officer that A said that he had a feeling "that it was like something from a Roman orgy, Caligula". A

told her that white powder was passed around which was referred to as “White Christmas” and there were tablets present. A man in a toga approached him and said “. . . you are a little sooky”. He told her he could remember the man eating grapes and he pulled him over to him, after which he had no recollection. He woke up next to the man whom he said had been appointed to a court out of South Australia. He said that “his father took him back there”. *B* told the police officer that *A* was shaken and she comforted him. She went on to say to him:

“He was obviously distressed. I was concerned. We discussed what I could do with the information and he said he trusted me, but we have to do something now, between us, if we have to have a suicide contract. He kept on saying that he was going to suicide.”

B told the police officer that she talked to *A* and put him on suicide watch. She did not tell the other residential care worker on duty with her that night. She held that worker in very high regard, but told the police officer that *A* was genuinely upset. What he had told her was “pretty explosive” and she thought the less people know about it, the better. She said that she had to write the process interview record but she did not trust the person to whom it was given.

On this occasion *B* also gave other information to the police officer which she said *A* had given to her of a very serious nature. Indeed, it is even more serious than the disclosure about *A*'s father as it related to the killing of children and the making of snuff movies many years ago at the home of a now deceased lawyer. That lawyer was said to be away in the country at the time. These disclosures are in the course of being investigated by the Commission but do not relate in any way to *A*'s father. This is the same disclosure as made to *C*. According to *B*, *A* did not make this disclosure to her but to *C* who repeated it to her. It appears that this matter was not disclosed to Dr Moles as he has not included it in the records which he made in 2002.

I mention that among documents provided to the Commission is the nomination of *B* by the acting manager of SAYRAC for a significant community service award in 1992. The nomination refers to her strong commitment to improving the service provided to young offenders at the Centre and her success in working with one young offender who is not *A*. She enrolled herself in a course undertaken by the young person which she attended with him in her own time. The contents of this document are testimony as to her attitude and ability at a time reasonably proximate to the occasion where she said *A* spoke to her about his father.

I mention this matter because it is some evidence of the way in which *B* was regarded at SAYRAC at about the time when she says *A* made the disclosure to her. It appears from other records that *B*'s relationship with other residential care workers deteriorated subsequently but it is unnecessary for present purposes to explore that matter.

I have mentioned in detail the allegations made by *A* about himself and his father which were so widely reported. The only basis for them is the evidence of *B* about what *A* allegedly told her.

I now turn to the other evidence which I have received and the considerable body of information in files of the Department relating to *A*.

A's father was not a serving judicial officer when the articles appeared in the newspaper but he is the person referred to in them, the disclosure by *B* to Dr Moles and in her evidence to the Inquiry. He had previously retired but he was a serving magistrate when *A* was at SAYRAC. There was no evidence to suggest that *A*'s father had ever been to Veale Gardens or was associated with any persons who did attend Veale Gardens. While it has not been suggested that *A*'s father was the magistrate referred to in the article in The Advertiser newspaper on 2 March 2005, it is

appropriate that I express my conclusion that there is no basis to link him with that allegation.

Evidence received from A and his parents and information contained in records of the Department and of Hillcrest Hospital, which I accept, when put together establish a clear picture of A's background prior to his admission to SAYRAC. He was an apparently normal child with no significant health or psychological problems until he was aged about 14 years.

A said, and I accept that it is likely, that he had been sexually abused by an older boy when he was aged eight years or so but he did not display any symptoms of the consequences of that abuse at that time or before the age of about 14 years. There is support for his allegation of the sexual abuse from a source which I do not disclose as it may identify another victim.

A was moderately successful academically at school and was good at sport. Shortly before attaining the age of 14 years his behaviour changed dramatically. He began to smoke marijuana and then became abusive both verbally and physically in the home. At times his conduct was so violent that he had to be physically restrained by members of the family and police. He was physically violent and abusive to members of his family, particularly to his parents,

and others and was destructive of property in the home and elsewhere. He made many threats to kill and harm his father.

His conduct was so severe and persistent that his father obtained two separate restraining orders made by the Adelaide Children's Court to protect the parents and siblings. He was prevented from living in the family home and was placed in various homes. He lived on the streets at times and was a user of alcohol and marijuana to excess. The first restraining order was made in early January 1992 after violent and abusive behaviour by A in the family home and I accept the evidence of A's father that A was extremely angry when that order was made. He expressed to his father hatred of him for being kept away from the family home.

A's father made a long statement to a police officer in January 1992 which probably was the precursor to the first restraining order. In that statement he set out A's background and behaviour in considerable detail and mentions the attempts made by A's parents to provide professional assistance to him. It is unnecessary for present purposes to set out the nature and extent of A's conduct mentioned in the statement. It is sufficient to say that A's father provided information about extremely violent, abusive and threatening conduct.

About a year later A's father made a further statement to the police alleging similar conduct of A after the restraining orders were breached.

These statements are significant for two reasons. They reveal that A was a very disturbed and violent person both before and after he was admitted to SAYRAC. They also show that A's father was making these allegations before he knew that A had made allegations about him. There can be no suggestion of A's father making allegations about his son as a reaction to the allegations against him which are the subject of the Inquiry.

The evidence of both of A's parents, which I accept, reveals that since about 1990 until a few years ago, A has suffered greatly from mental illness. Eventually he was diagnosed as suffering schizophrenia. Both parents supported him and acknowledged that he suffered severely because of his illness, as have all members of the family. I accept the evidence that all of them have supported him in every way possible. They consulted different child and adolescent support services, members of which attempted to assist him over a number of years. A was required to leave the school he attended because of his conduct and after a brief period at another school, which was unsuccessful, he was

permitted by the education authorities to leave school at the level of year 10.

Not long before committing the armed robbery and being admitted to SAYRAC, A had been an inpatient at Hillcrest Hospital. It is unnecessary to mention the information contained in the files of that hospital in any detail. It is sufficient to say that A was a very disturbed young person with severe consequences from drug and alcohol abuse and possible mental illness which was not confirmed at that stage. He was not regarded as having given accurate and reliable information to medical practitioners and staff who were attempting to care for him. According to his father, A had a vivid imagination.

When A was at SAYRAC on remand following the armed robbery a psychiatric report was prepared for the court by a psychiatrist at the Adelaide Children's Hospital in April 1992. The psychiatrist had assessed A when he was at Hillcrest Hospital in July 1991 and he again made an assessment for the purposes of the report. He reported that when A was in Hillcrest Hospital he did not think he was suffering from any psychosis or major depression or that there was a medical explanation for his violence beyond a contribution of intoxication.

When the psychiatrist examined him at SAYRAC, A informed him that he had two types of hallucinations, one after waking from nightmares and the other when withdrawing from drugs after his admission to SAYRAC. This latter hallucination was seeing Satan when he looked in the mirror. The psychiatrist did not regard these hallucinations as indicating psychiatric illness and while he thought A may have been suffering from some kind of post traumatic stress disorder due to his treatment at Hillcrest Hospital, he could not find evidence of major depression, a chronic disorder or any other psychiatric syndrome. However, he concluded that A had a severe problem with drug use and with personal and interpersonal functioning.

A few days earlier A was examined by a psychologist who expressed the view that A's behaviour was characterised "by much grandiosity and exaggeration making it difficult to know what to believe". He gave examples which clearly indicated that A was not telling the truth about his claims as to the extent of his consumption of alcohol, his control of money and the number of his close friends.

During these consultations A did speak about his parents and his conflict with them. It was reported that he said that he could only attribute the conflict with his parents, particularly his father, to a personality clash and he refused to be more specific. The psychologist reported that A had

received telephone calls from his father while in SAYRAC which he did not mind and they did not upset him. It was further reported that when the psychiatrist mentioned that his father might attend the assessment panel at the Centre, A began to talk aggressively about his father and threatened to assault him if he attended. He then spoke aggressively about his father and some residential care workers. He claimed to have mental control over them.

Disclosures by A indicated to the psychologist that he had a persecution complex and that he had visual and auditory hallucinations. I need not describe them but they indicate that A was very imaginative, very disturbed or both. He also made extreme allegations of self-harm while under the influence of drugs. The allegations seem highly improbable.

The psychologist expressed the view that there were signs which might indicate psychiatric disturbance and some organic involvement. However, he reports that;

it is difficult to tell from [A's] account what is real and what is not, what are genuinely held beliefs and what are simply exaggerations or deliberate misinformation particularly as there are some inconsistencies in the accounts he has given to different persons.

He suggested further psychiatric and family neurological assessments.

I have noted that despite this aggressive talk about his father, *A* did not make any allegations to the psychologist about his father of the nature reported in the Sunday Mail or reported by *B* to Dr Moles.

Another psychiatrist assessed *A* during May 1992. He reached much the same conclusions as the psychiatrist whom I have mentioned. He also concluded that there was no evidence of a major psychiatric illness.

A social worker at the Elura Clinic of the Drug and Alcohol Services Council reported in early April 1992 that *A* told her of his heavy alcohol and marijuana use from the age of 13 and that he used other hard drugs including LSD. She described him as having a serious dependency on drugs and alcohol.

After *A* was arrested and admitted to SAYRAC two community welfare officers of the Department were assigned to him. I shall refer to them as *D* and *E*. *D* had more to do with *A* than *E*. When *A* gave evidence at the Inquiry he spoke very favourably of *D*. He said that *D* was the sort of person he could talk to. He got on well with him. He said, "You could tell anything to [*D*]".

D saw *A* with some frequency when he was living at SAYRAC and at the Gilles Plains and Sturt Units. He described *A* as a “troublesome boy who was bright but did not appear to have any psychiatric condition” although there is no suggestion that *D* had any qualification in medicine or psychiatry. He found that *A* had the ability to be very engaging, charming and good company, but he could immediately change and be unco-operative and aggressive. At that time he did not regard *A* as an honest person and considered that he was not genuine in his actions. He sought to deflect responsibility from himself to others.

According to *D*, *A* would say outrageous things and it was hard to distinguish fact from fiction, however, there was much to like about him and he was improving up until the time of the accident.

I have read through the notes made by *D* and *E* contained in Department files of conversations with *A* and incidents including him. At no time did *A* say anything to *D* about conduct of his father of a sexual nature or even remotely similar to the disclosures published in the Sunday Mail newspaper.

The notes indicate that *E* reported a conversation with an adult person with whom *A* had been living prior to his arrest. That person told *E* that *A* was eventually escorted from the

premises where he was living by police due to possession of marijuana. *E* also reported that she had asked that staff involvement with *A* be kept to a minimum because of issues of confidentiality and sensitivity. She requested that all contact with *A* be through herself.

When reporting about an interview with *A* by *D* and *E* in March 1992, *D* noted that not “a lot of clear logical information was obtained”. He also reported that while *A* acknowledged his involvement in the armed robbery, he did not accept responsibility for, or the seriousness of, his conduct. This interview covered many matters but it is significant that *A* did not make allegations adverse to his father of the nature published in the Sunday Mail newspaper. He said that his father was neurotic and obsessive and had been violent towards him in early childhood.

I regard these allegations as significant for two reasons. First, they indicate that *A* was prepared to make serious allegations about his father but they were not allegations of the nature which he is alleged to have made to *B* and which she reported to Dr Moles. Also they were not the allegations which *C* alleges *A* made to her. Secondly, they are allegations which are denied by the father and the mother and *A* himself in evidence to the Inquiry. The making of these allegations to *D* and *E* tends to confirm that

A was blaming his father for the position in which he found himself in SAYRAC and was attempting to deflect responsibility from himself which is a relevant consideration when assessing the truthfulness of anything he said to B.

When A was placed at the Sturt Unit he had considerable contact with the supervisor whom I shall refer to as F. In his evidence to the Inquiry, A says that he liked her and had a very good relationship with her. Her evidence is to the same effect. She took an interest in him and they had many conversations together. When receiving evidence from her about various matters many of which do not relate to A, I formed the clear impression that she is a very experienced youth worker who displayed genuine concern for the persons in her charge and considerable kindness to them. She visited A after his accident and he visited her at the Sturt Unit even though he was not living there. It is also a matter of importance that at no time did he ever make any allegation to her about his father along the lines reported by B.

A's father engaged a counsellor on a private basis to give assistance to A. I shall refer to him as G. He saw A on several occasions prior to his accident. He noticed animosity on the part of A to his parents and one of his siblings but generally regarded A's relationship with his father as satisfactory.

G saw A on the day of his accident and also thereafter in hospital. No allegations of sexual abuse or of his father being involved in any such activity were ever made by A to him. G regarded A as an intelligent person but queried his honesty and considered that he was prone to fantasising. He thought that A could have been inventing some of the matters which he related.

There is a significant degree of consistency between the observations by all of these persons about A which reveals a lack of honesty and genuineness on his part when and around the time he was in SAYRAC and is alleged to have made the allegations about his father. These observations also reveal that A was prone to fabrication for his own purposes and blamed others, including his father for his incarceration.

In 1994 he made a detailed and descriptive accusation to police alleging that a man had drugged him with various illicit drugs and had raped him. The man was arrested and charged with rape. The charge was subsequently withdrawn and A was charged with making a false report to police. That charge was also eventually withdrawn.

On a later occasion A became angry with a family member, not his father, and accused him of rape. The allegation was

investigated by the police but no charge was laid. He later apologised to the family member for making the false allegation.

Over the years subsequent to the road accident A was charged with various offences which I describe in a shorthand way as damaging property (multiple counts), failure to comply with one of the restraining orders, common assault (multiple counts), carrying an offensive weapon which was a meat cleaver, and a second offence which involved two knives, and breach of bond. These charges were all resolved by being withdrawn or with leniency, such as a conviction being recorded without penalty or the imposition of a fine.

Following his discharge from the Julia Farr Centre after the road accident, A received regular assistance at Hillcrest and Glenside Hospitals including medication and inpatient care and on occasions in closed wards.

A was examined and assessed by another psychiatrist in April 1993 at the request of A's parents who believed that A was suffering mental illness. I mention some of the observations of this psychiatrist which are particularly relevant for present purposes. He found that there was evidence of thought disorder and of systemized delusions in A's thoughts. His social relations, ability to control his

aggression, moral and social judgment, intellect, thought processes and mood and perception were all impaired.

The psychiatrist expressed the opinion that A's history and clinical condition were consistent with a diagnosis of schizophrenia more recently complicated by head injury.

Over five years later a magistrate sitting in the Magistrates Court of South Australia found that A suffered mental impairment as defined in s.269A of the Criminal Law Consolidation Act 1935 upon the second charge of carrying an offensive weapon. The Court file does not set out the basis of any findings and only records that orders were made pursuant to s.269 for supervision of A. It appears that it was agreed that A was mentally incompetent to commit the offence. It is recorded in a report from a forensic psychiatrist that the basis of the finding was his condition of significant head injury and frontal lobe syndrome and psychosis. Of course, the head injury occurred after A made the disclosure to B and is not relevant to any assessment of A at the time he made that disclosure. However, this psychiatrist accepted that A had a chronic psychiatric illness which may be associated with the head injury or schizophrenia exacerbated by the head injury and in either case aggravated by chronic substance abuse. For present purposes it is unnecessary to explore the detail and

basis of that finding. It is mentioned to demonstrate further recognition of his mental illness.

Also from time to time the Guardianship Board made detention orders regarding A based upon his having a mental illness which required treatment. Conditions attributed to him by psychiatrists include anti-social personality disorder, paranoid grandiose ideation, schizo-affective disorder, chronic schizophrenia, bipolar disorder, bipolar affective disorder, and organic brain damage after the motor vehicle accident. It is recorded that A suffered from auditory and visual hallucinations.

Perusal of the various files of the Department indicate that most of these descriptions were applied after the closed head injury suffered by A in the road accident. Also some of them may be regarded as possible illnesses rather than firm diagnoses. Nevertheless all of this information indicates that A was mentally ill over a very long period of time and it seems likely that he was mentally ill when he was resident at SAYRAC although the precise nature and extent of the illness was not, or could not, be determined at that time.

All of these matters indicate characteristics of the person who is alleged to have made these serious allegations against his father.

According to A's mother A was introduced a few years ago to a regime of medication which has assisted him to the extent that he has been able to live independently in his own home. There was one occasion when his medication was changed and he reacted adversely. Upon his medication being restored his equilibrium returned.

A's parents purchased a house for him which he has occupied for about two years. He is engaged to marry and has been accepted into tertiary education.

Police officers commenced an investigation of the allegations soon after the publication of the Sunday Mail newspaper on 6 March 2005. Two detectives attached to the Sexual Crime Investigation Branch interviewed A on 16 March 2005 at his home. No one else was present.

A told them that he had been sexually abused by an older boy when he was aged about nine years. He also told the detectives that when he lived on the streets he was sexually abused a few times, but he was reluctant to say much about it. He said that he had been drugged a few times at a party which distorted his memory.

He told the detectives that there was a male person who told him that "lawyers used to hand a young boy around" but

he said "I missed all that". He went on to say that he did have a vague recollection of being abused when he was drugged, after being taken to a place by girls. He said that women went out and lured the street boys to a party and men abused the boys. He also said that he had fuzzy recollections of businessmen and of being penetrated. He did not have any of their names. Later, he told them that this conduct occurred to him on one occasion at a house at either Jeffcott Street or Childers Street at North Adelaide. He said it occurred after his motor vehicle accident. He also told the detectives that there may have been two occasions. A also told the detectives that he believed two particular boys were abused in this way and they had told him what had happened to them.

A told the detectives that he had a good relationship with his father who, he said had "a lot of integrity". He said he had never questioned his father's integrity.

I am informed that following the investigation by the police officers, no further action was taken by them.

I now come to the evidence from A to the Inquiry which was received on 13 May 2005 and later on 26 September 2005 after I had received evidence from his parents. On both occasions I received the evidence at his home. He had not been living in an institution for a few years. His mother was

present at his request. She indicated her willingness to leave but A wanted her to stay. At an early stage of his evidence on the first occasion a social worker who had been assigned to him by a division of Northern Mental Health Services arrived and remained with him.

A recalled the armed robbery and being placed at SAYRAC, the Gilles Plains Unit, SAYTAC and Sturt Unit and his being involved in the road accident and seriously injured. He did not recall B.

During the course of his evidence I asked him many questions about his distant and recent past all of which he answered relevantly and accurately according to other evidence which I found acceptable. There was no indication of short or long term memory loss. He recalled relevant information about SAYRAC and two units where he lived and the residential care workers whom he could remember.

He denied that his parents had ever taken him to parties at North Adelaide and he denied the allegations which had been made in the Sunday Mail newspaper to which I have referred. He denied that his father had ever taken him to an adult party or to a party where men were present.

A acknowledged that for some time he lived with friends and on the streets and consumed alcohol excessively and illicit drugs but he claimed to have a good memory.

He said that he had never met a judge who lived interstate. He described his father as a “lovely man”. He said he was very kind and fair and did anything he could for his family, which he said he wished he had realised years ago because his life would have been different.

A said that he could have said something about his father in anger which was not true when he was at SAYRAC or the Gilles Plains unit, but said that he had never told anyone that his father had taken him to a party and he had been drugged and abused. He described that allegation as a complete fallacy.

When A gave further evidence to the Inquiry on 26 September 2005 he said that from the age of about 14 years to the time of his accident, he was “antisocial and anti everybody”. He confirmed his earlier evidence that his father had never done anything adverse to him but there were times when he spoke badly about him making false allegations. He said “I was crazy, all over the place then”.

In his evidence A said that when he was on the streets he did hear about parties where children were abused. When

asked about his parents having parties, he said that they had normal parties and went on to say, "...I think I might have embellished - well maybe I embellished one of those parties, you know to make myself look good or something. I don't know". He said his parents had dinner parties. Both of his parents said in evidence that they had only ever been to one fancy dress party which was arranged for their tennis club and did not involve ancient Roman dress or any particular theme.

When on the streets A said that he had heard children talking of having made themselves sexually available for money or drugs but he had not done so. He regarded some of the stories as exaggerated. A acknowledged that he had told the police officer whom I have mentioned, that he had been told by a particular person that a child had been handed around by lawyers, but he had no direct knowledge of that happening. Towards the end of his evidence to the Inquiry A acknowledged that he told the police officer that he had a recollection of businessmen at a party and of his being penetrated sexually. He told the Inquiry about young persons being taken to parties after being picked up at night clubs and giving sexual favours for money. He then said he may have done so once or twice.

CREDIBILITY AND RELIABILITY

It is appropriate to make mention about the credibility and reliability of the witnesses from whom I received evidence, and the reliability and accuracy of the information provided in the various files, reports of the psychiatrists and the psychologist, the transcripts of police interviews and the information provided by *D*, *E* and *G*.

I am satisfied the information in the many files is accurate and reliable. In important respects it accords with other evidence and there is no reason to doubt any part of it. I accept the information provided by *D* and *E*, the two community welfare officers, *G*, the counsellor engaged by *A*'s father, and the evidence of *F*, the Supervisor at the Sturt Unit. I also accept the opinion of the psychiatrist who saw *A* in April 1993 in that the diagnosis of schizophrenia may be accepted at the least as a reasonable possibility and as having existed before the road accident and when *A* was on remand at SAYRAC.

I also accept the matters set out in the reports of the other psychiatrists and the psychologist but I think as time went by it became clear that *A* was very disturbed and the diagnosis of mental illness should be accepted for present purposes. I have not found it necessary to take evidence from these experts to try and resolve any issue of the state

of *A*'s mental health at the time he was at SAYRAC and allegedly made the disclosures as I regard that matter as essentially a collateral issue. What is important is whether *A* can be accepted as a reliable and credible person at that time.

The issue of credibility of *A*, his parents, and of *B* and *C*, must be considered in the context of all of the evidence.

While it is true that *B* has suffered and continues to suffer ill health since about 1993 I do not think her evidence should be rejected for that reason. As has been mentioned she was well regarded at SAYRAC in 1992. The evidence of *C* of disclosure by *A* to her of grave allegations tends to confirm that *A* was prepared to behave in that way to persons whom he did not know well. Other evidence establishes that his disclosures were often fanciful and fabricated to suit himself.

The absence of any process interview record in the Department files does not necessarily indicate that *B*'s evidence is false. The note by *E* that staff contact with *A* should be kept to a minimum, which has been mentioned in this report, may explain why a process interview record was not put on a file to protect disclosure to anyone examining the file. The information received by *C* from the police on

the night *A* was admitted may have afforded a reason to others to pay little attention to any disclosure by *A*.

As the allegations are based upon hearsay information it is necessary to consider the credibility of *A* and *B*. If either is found to lack credibility there is no basis to accept the allegation even at a low standard of proof, such as whether it is a reasonable possibility.

However, it is not necessary to so decide as the evidence clearly establishes that the disclosure by *A* to *B*, if made, is plainly false. Acceptance of the evidence of *A*'s father is sufficient to reach that conclusion and I accept his evidence without hesitation. I also accept the evidence of *A* that he may have made the disclosure but if he did so it was false insofar as it related to his father. I found *A*'s parents to be reliable and truthful witnesses. Their evidence about their ordeal with *A* after he reached the age of 14 years is confirmed in many aspects by all of the evidence of persons dealing with him as is seen in the reports of experts, in the records in the many files and the observations of the welfare officers and youth workers.

I have accepted the evidence of *C*. As has been mentioned, she was not present when *B* says *A* made the alleged disclosures to her, but her evidence as to what *A* told her is significant. The fact of *A* making such grave

allegations to her about activities at the home of a lawyer in his absence, tends to support *B*'s evidence of what *A* told her. It indicates that *A* was prepared to make such serious allegations to a person whom he hardly knew but not to others with whom he had much greater contact and may have had reason to disbelieve him.

Also I think that the absence of his disclosures of these serious allegations to others with whom he was in contact does not indicate a lack of credibility on the part of *B* or *C*. It may merely indicate that in making the disclosures he sought to draw attention to himself from persons with whom he had only brief acquaintance.

The credibility of *B* and *C*, and indeed *A*, must be assessed at two different periods of time; when the allegations are said to have been made by *A* at SAYRAC and when they gave evidence to the Inquiry. The evidence discloses that *B* was well regarded at SAYRAC in early 1992 when the allegations were made by *A*. There is reason to suppose that *C* was also well regarded as she was the worker in charge at various times. Over the last 10 years or so, both of them have suffered, and continue to suffer, ill health and severe stress. In view of the conclusions I have reached about *A*, it is not necessary to make particular findings about *B*'s credibility and reliability at the present time although I think it is probable that *A* did make the

allegations to her in 1992 as she has stated. I have not found any reason to doubt the credibility of C. I think it is likely that A made the disclosure to her which I have mentioned.

The evidence clearly establishes that when A was in SAYRAC he was very disturbed. I have mentioned it is probable that he was suffering schizophrenia. The evidence which I have mentioned is sufficient to establish that he was not credible and reliable at that time and whatever he disclosed at that time cannot be accepted.

At the present time A is on medication and his life appears settled and stable. I could not detect any indication of genuine memory loss. He does not deny that he made the allegation to B, but says that he has no memory of her or of the disclosure. He asserts that the allegations about his father are untrue. He also says that if he did make them it may have been due to his feelings of anger about his father at the time. The evidence which I have found acceptable clearly establishes that he harboured strong feelings adverse to his father before he was admitted to SAYRAC and while in detention. He tended to blame anyone but himself for his circumstances. He was in detention for the first time.

There is no basis to accept anything that *A* said about his father at that time was accurate and reliable. What he told the police and the evidence which he gave to the Inquiry, suggests that he may have been sexually abused by a man or men having been lured to a party or parties. It may be possible that in making the disclosure to *B*, if that is what occurred, he embellished an incident in which he was involved and fabricated the involvement of his father for his own purposes.

What was revealed by *B* to Dr Moles and to the Sunday Mail and The Australian newspapers was hearsay information at best and could not be the basis of any factual finding about such a serious matter for any purposes. Pursuant to s.5(1)(a) of the Commission of Inquiry (Children in State Care) Act 2004, I am not bound by any rules or practices as to procedure or evidence. I have not rejected the evidence of *B* of what *A* allegedly told her merely because it is hearsay and would be inadmissible as testimonial evidence in legal proceedings. I have undertaken extensive investigation to ascertain if it is possible that the allegations are true. I have reached the conclusion that there is no such possibility.

I accept the evidence of *A*'s father and in particular his denial of the allegations. I have mentioned the evidence of *A*'s parents as to the background of *A*, his illnesses and

behaviour. I accept their evidence about these matters and as to their support of A. I also accept the evidence of A's mother that the lawyer who died many years ago whom I have mentioned, was never engaged to A's aunt.

A's father denied the allegations made about him as disclosed in the evidence of B and C, recorded by Dr Moles and published in the Sunday Mail and The Australian newspapers.

CONCLUSION

Having considered all of this evidence and reached conclusions about the veracity of A and both of his parents, I conclude that there is no basis for a finding that A was taken to parties by his father and sexually abused as B alleges she was told by him and as was alleged in the newspapers.

There is no reason to suppose that the allegations in The Advertiser newspaper on 3 March 2005 about a magistrate refer to A's father. Indeed, it is very likely that they do not. There has been no evidence given to the Inquiry to support that A's father had ever been involved in a paedophile ring or any other activity at Veale Gardens or elsewhere. That

allegation, if it is meant to refer to *A*'s father, is unsubstantiated and I reject it.

I now turn to the allegations published in the Sunday Mail.

For the reasons which I have earlier mentioned it is not true that before the publication of the Sunday Mail newspaper on 6 March 2005 the Inquiry had been told of *A*'s alleged disclosure to *B*.

B and *C* gave the information to Dr Moles on 15 August 2002. He did not help them prepare a statement in 2004. The allegation that there were sex parties involving lawyers where children or young people would be made available to them for abuse and that the son of a magistrate was a victim of that abuse refers to *A* and to the story which he allegedly gave to *B*. As has been mentioned that allegation is not substantiated and is rejected. The allegation in the article that *A* told the story to the two women, *B* and *C*, is contrary to their evidence and is rejected.

While it is unnecessary for present purposes to comment about the conclusions reached by Dr Moles, the evidence does not enable me to reach the conclusion that what *A* is alleged to have said to *B* is "part of a string of cases" that proves sexual abuse of State children involved people and persons of influence. Whether other evidence establishes

that assertion can only be determined upon all of the evidence and information which the Commission receives.

At the time of the publication in the Sunday Mail newspaper a copy of the process interview record and tapes were not in the possession of *B* and could not be provided to the Commission.

The evidence does not establish that *A* was passed around a paedophile ring by his father.

I also reject the allegations published in The Australian newspaper on 7 March 2005. There is no evidence to establish a “Judicial link to sex ring”, that *A*’s father was involved in a paedophile ring or that he, on a number of occasions, took *A* to parties and made him available for sexual favours.

The allegations and opinions published in the Sunday Mail newspaper and The Australian newspaper are based upon hearsay information given by a youth with a likely serious mental illness and with a history of fabrication, fantasy delusions, self justification, denial and seeking to attach blame to others. They are of perhaps the most serious nature which can be made against a father regarding his son.

The publication of them in the way that occurred initially reflected upon all members of the judiciary in South Australia. The identity of the “judicial officer” was probably very quickly discerned by the many persons who knew *A*’s father, his family and of the tragic illness of *A*.

I have investigated, and shall continue to investigate, allegations which are based upon hearsay in order to see if there is a sound factual basis for them. However, if there is no evidential basis other than hearsay which cannot be tested and assessed, then the test of whether it is reasonably possible that the allegation is true, (which I mentioned in Chapter 17 of the Interim Report), cannot be satisfied.

It has been possible to investigate the allegations about *A*’s father as *B*, who received the allegations and *A* who allegedly made them, have both given evidence which has been considered and assessed along with all other relevant evidence.

As I mentioned in the Interim Report it is the criminal court which should make decisions about criminal responsibility and all of the persons involved in that process must have the protections and safeguards of the criminal justice system.

It is appropriate that allegations of sexual abuse of State children be made to the Commission. If, upon investigation, the test which I have mentioned is satisfied the allegations should be referred to the South Australia Police unless there is good reason not to do so. The Commission will observe s.5(5) of the Act at all times. If there is no evidential basis to support allegations, it may be still appropriate to inform the police in the public interest as the information may assist in other investigations or the police may have evidence which will provide that evidential base.

However, publicity before investigation is likely not only to be unfair to the person against whom the allegation is made but also may prejudice the investigation.

OUTSIDE THE TERMS OF REFERENCE

A became a State child in State care when he was arrested and placed on remand at SAYRAC. There is no evidence to indicate that he was a State child before that time. The allegation that he was sexually abused, if it had been true, necessarily means that the sexual abuse occurred before he was a State child and therefore the allegation is outside the terms of reference.

I could not be sure about that matter until I was part way through the investigation. Because of the extreme seriousness of the allegation I thought that it was in the public interest that I complete the investigation.

Furthermore, I was obliged to have regard to s.5(1)(e) of the Act which provides that in conducting the Inquiry I may refer any matter that comes to my attention but that is not directly relevant to the Inquiry to any person or agency as I see fit which includes the South Australia Police. I considered that in the circumstances I should complete my investigation of the allegations before deciding whether to exercise that discretion. As I have not found any evidence to support the allegations, no further action is required.