

**Gray, Fiona**

To: cases  
 Cc: Steedman, Gabrielle  
 Subject: Election report [CDM] 201015523 and 201016539

Election report [CDM]  
 CASES: 201015523 (complainant [CEW])  
 CASES: 201016539 - FRESH MATTER (complainant [CEY])  
 Election

Original matter 201015523 [CEW]

The accused was originally charged with 2 charges pursuant to s61M(1) in relation to the complainant [CEW] [201015523]. I recommended that an election be made in relation to those matters, as the correct charge to be preferred, pursuant to s61M(2) had a standard non parole period of 8 years. I also noted that a charge pursuant to s61M(1) had a standard non parole period of 5 years.

The objective seriousness of these matters is well in the middle range, given the age of the child, the nature of the indecent assault (touching on the genitals) and the significant breach of trust. I note that the Assistant Solicitor (Sydney) determined that no election be made.

Fresh matter 201016539 - [CEY]

The accused has now been charged with an additional offence involving a further complainant. The accused has been charged with an offence pursuant to s61O of the *Crimes Act 1900*. This does not appear to me to be an appropriate charge. Again, the appropriate charge ought to be one pursuant to s61M(2): an indecent assault.

The allegation is that the accused rubbed his hand on the vagina of the complainant, who was aged 5 years old at the time. The accused was the part owner, with his daughter, of a childcare centre which each of the complainants attended.

Given the multiple complainants, standard non parole periods applicable to the correct charges and significant breach of trust, there is not sufficient sentencing scope for the matter to be dealt with in the Local Court. That is, the matters fall within the mid range of seriousness for offences of this type, due to breach of trust and age of the children concerned.

Election is to be made.

**Fiona Gray**

Trial Advocate

Office of the Director of Public Prosecutions  
 Level 16, 175 Liverpool Street | Sydney

t: [REDACTED]

f: [REDACTED]

e: [REDACTED]

| DX 11525 Sydney Downtown

I agree with Ms Gray  
 that (a) the DPP to take  
 carriage of this matter & (b)  
 that an election be made. Since  
 the new complainant was added my view is  
 this justifies the first complainant's matter to also  
 be re-visited on the issue of election. W. Carr noted  
 it was a borderline matter then, in my view the  
 additional complainant has tipped the matter into  
 warranting election. Elect on this AND 201015523  
 (file attached).

[REDACTED]

A/M/LGI  
 G. Steedman