

NOTE TO PROSECUTOR,

The attached file relates to historical matters, which started at Retta Dixon Home on Bagot Road in about 1963.

Retta Dixon Home was an arm of the Aboriginal Inland Mission and catered for Aboriginal, Part Aboriginal and European children who either had no parents or through some misfortune had been abandoned or were unable to be cared for by their parent/s.

On the whole Retta Dixon appears to have been well run with the majority of cottage parents although being hard at times, providing a good upbringing to the children being fostered there. In all there were 8 cottages at Retta Dixon, each cottage being run by different house parent/s. On occasions parent/s from individual homes went on recreation leave and as a result the children from these cottages were shared amongst the other cottages until the house parent/s returned.

Due to a complaint received from AJB in June 1998, (who was a child in care at Retta Dixon) the reporting member conducted an investigation into allegations of serious sexual abuse committed upon him and others by a Donald Bruce HENDERSON during the period from 1963 to 1971.

Location of complainant's and witnesses has been a major problem with both moving around both inter and intrastate.

Initial investigation revealed that an earlier investigation by Det. Sgt. Alex CAROLAN in 1975 against HENDERSON was unsuccessful. The substance of the allegations against HENDERSON during this investigation are of an identical nature to those now being alleged by the current complainant's.

None of the original complainant's in 1975 are amongst the current group of complainant's. A copy of the records of interview completed by CAROLAN on HENDERSON in 1975 are attached to the file.

It is believed that the matter failed due to the children been unable to give credible evidence during the committal.

I have viewed the transcript of the committal/hearing and it would appear that the prosecution of the matter left a lot to be desired.

Donald HENDERSON was interviewed in relation to further offences against children in 1983/84 and was convicted without penalty after pleading guilty. The offences were 2 counts of aggravated assault on a male child of a sexual nature.

These matters happened in Darwin and were heard at the Casuarina Magistrates Court.

The apprehension report number at the time was 25492/83.

A copy of the CIB Running Sheet in relation to the matter is attached to the file.

There are four main complainant's in the matter and it is suspected that other persons are also victims but just want to get on with their life and therefore don't want to make a complaint.

The four main complainant's are AJB, AJD, AJE and **REDACTE** Carmen McMAHON who was known as Mary-Anne WHITTAKER at the time of the alleged offences.

AJB was the first complainant and mentions in his statement that he was continuously sexually assaulted by one of the other victims of HENDERSON who is also a complainant and that is AJD.

It is felt that [AJB] would make a good witness but would have to be brought from Alice Springs to give evidence.

[AJD]'S sexual abuse of [AJB] started approximately a year before that of HENDERSON on [AJB].

I have spoken to [AJB] in relation to his complaints against [AJD] who himself was a victim of HENDERSON at the time and it is suspected [AJD] was a victim of HENDERSON on many more times than the one count of buggery that he has complained of. [AJB] understands that [AJD] was a victim of HENDERSON and also understands that [AJD]'S assaults against him were more than likely the result of [AJD] being sexually assaulted by HENDERSON. (HENDERSON assaulted [AJD] in approx. 1966 whilst [AJD] assaulted [AJB] in approx. 1967.

It is also likely that HENDERSON and [AJD] communicated about [AJB] as attested to by [AJB] in his statement on page 6 when HENDERSON told [AJB] that he knew he liked "this sort of stuff".

The complainant [AJD] may very well have been HENDERSON'S first victim as his complaint date against HENDERSON is the earliest of all complainants.

The historical complaints investigated by D/S CAROLAN in 1975 all occurred in 1975 at a school camp at Coomalie Creek near Batchelor and is most likely the same camp that [AJB] complains of being indecently assaulted by HENDERSON in 1969/1970.

[AJD] is currently residing in Perth and lives in a semi long grass situation. [AJD] has been convicted of sexual crimes against children in West Australia and has spent time in WA Prisons for those offences.

[AJD] states that he has suffered long enough as the result of the sexual abuse by HENDERSON against him and is now ready to come forward. He states that he feels a certain amount of "shame" due to the offences committed against him by HENDERSON and this is one of the reasons that have precluded him from coming forward previously. He states he feels comforted by having other persons supporting him in his complaints. It is felt that [AJD] would make a good witness but would have to be brought from Perth to give evidence.

[AJD] is currently married with mature children although not living with his wife who lives at [REDACT] near Mandorah.

The third witness [AJE] lives in Darwin although he moves around from time to time as he is a plant operator with a local construction company. It is believed that [AJE] also was the victim of buggery by HENDERSON at the time and he feels too ashamed to admit it. [AJE] has only made a complaint in relation to 16 counts of indecent assault. The sexual assault (buggery) upon [AJE] is attested to by [AJC] another witness who was a child in cottage 1 at Retta Dixon at the time. [AJC] states on page 3 of his statement that he went into the store one day and HENDERSON came from behind some shelves with his shorts around his knees and his penis sticking straight out. [AJE] then came out pulling his pants up and he had an embarrassed look on his face.

It is felt that AJE would make a reasonable witness but would be nervous in the box.

The fourth witness is AJE, Carmen McMAHON who makes a complaint of 20 counts of Indecent assault on a woman or girl against HENDERSON and one count of Assault Occasioning Bodily Harm, (fractured nose), which is partly corroborated by medical X-Ray notes from RDH, a copy of which is attached to the file.

There are no hospital notes or doctor's notes on the file in relation to the fractured nose complained of by Carmen McMAHON but there is an X-Ray report, which refers to a fractured nose at about the time nominated in her statement that the offence happened.

It is felt that Carmen McMAHON would make a reasonably good witness.

In most matters apart from the allegations of buggery, there are considerably more counts than those which are noted on the AR.

These counts have been averaged out (eg instead of 2 to 3 times a week as attested to in the complainant's statements an average of 4 times per month over the nominated period has been used as an average).

There is considerable similar fact evidence in relation to the indecent assault and indecent assault on a woman or girl evidence.

This evidence is also corroborated by similar fact evidence as provided in the 1975 investigation by D/S CAROLAN.

All charges are subject to the Criminal Law Consolidation Act of 1876. There are amendments in the act from this period on but I have liaised with the IJIS people who have checked the times of the charges that I have added to the information report on IJIS and they assure me that I have the right ones. A copy of the appropriate Legislation is attached to the file.

Apart from 2 counts of Buggery against victims AJB and AJD there are also 2 counts of buggery against HENDERSON in relation to chooks, where AJD has seen him on 2 occasions having sex with a chook.

AJC on page 3 of his statement also states that he saw HENDERSON in the chook house on one occasion with his pants down around his knees with a chook in front of him and he couldn't see HENDERSON'S penis but the chook was "really screaming out".

At this time I haven't added AJC'S count of Buggery to the Apprehension Report.

On the 6 March 2001 I attended at REDACTED in Queensland with DSC NICHOLSON and interviewed HENDERSON in relation to the above allegations.

It was initially thought that HENDERSON may speak to us about the allegations but it got too much for him and he eventually contacted a solicitor by phone.

I spoke to the solicitor, Mitchell CAVANAGH from Ryan & Bosscher of Maroochydhore in Queensland, who said he would be in contact with me upon my return to Darwin.

I subsequently spoke to CAVANAGH who advised me that it was his client's intention to return to Darwin if he was summonsed in relation to the matters.

On about the 20 March 2001 I received a letter from Mitchell CAVANAGH setting out the wishes of his client.

This letter is attached to the file.

HENDERSON when spoken to looked in good health and stated he was in good health apart from some arthritis.

I have also spoken to the Superintendent of Retta Dixon at the time of the offences, Mr. Merv PATTEMORE in relation to him being told about the conduct of HENDERSON. PATTEMORE states that he didn't suspect anything happening with HENDERSON at the time of the abovementioned complaints.

PATTEMORE became emotional during my conversation with him and he would not provide a statement in relation to his knowledge of any offences or to his duties in relation to HENDERSON at the time.

He stated he had already been before the court in relation to the Stolen Generation Matter and couldn't handle any more.

Also attached to the legislation is a copy of the Children's Protection Act 1899, which states that consent cannot be raised as a defence where the child under the age of 17 years.

Section 67 of the CLCA also states that no child under the age of 12 years shall be deemed capable of consenting to any indecent assault.

The reporting member also requests that once the file has been allocated that the attending Prosecutor contact myself so that we can liaise in relation to the content of the file.

Submitted

Roger NEWMAN
Sexual Crimes Unit.