

DPP 93/8483

MEDIA RELEASE

ALLEGATIONS AGAINST CERTAIN CHRISTIAN BROTHERS

The Director of Public Prosecutions for WA, Mr John McKechnie QC, today released the following statement.

"For some months the Police Child Abuse Unit has been consulting the office of the DPP in relation to allegations made against certain former Christian Brothers. The complainants alleged a variety of sexual misconduct ranging from indecent dealing through to acts of gross indecency together with some serious assaults. The allegations chiefly relate to a small group of Christian Brothers and concern events of 40 years ago.

"Therefore there has been a very lengthy delay in bringing the matters to the attention of the authorities.

"Each case has been considered separately bearing in mind the strength of the available evidence, the law which a trial judge would apply, and the published *Prosecution Policy* of the State.

"In ordinary experience, a number of allegations against the same person may suggest that probably that person has committed offences. However, special rules, to ensure fairness, apply to criminal trials.

"Any criminal trial would require proof of each case beyond reasonable doubt in circumstances where there is no corroboration of individual allegations.

"On present rulings of the High Court, the experience of one complainant cannot become admissible evidence to be used on the trial of another, except in very limited circumstances.

"Moreover, a jury would have to be warned that it would be dangerous to convict a person after such a long period of delay without scrutinising the evidence with great care.

"To these concerns must be added any disadvantages to an accused person whose right to a fair trial can be impaired by the long delay.

"The *Prosecution Policy* states that even if a prima facie case exists the prosecution of an offence must also be in the public interest. This requires in part the balancing of the proper administration of criminal justice against available resources.

"One matter addressed in the evaluation of the public interest is the reasonable prospects of conviction as it is neither fair nor just to the accused or the community to proceed with a prosecution which has no reasonable prospect of resulting in a conviction.

"The evaluation of prospects of conviction is a matter of dispassionate judgment based on a prosecutor's experience based on a legal assessment of the facts. Having carefully considered all the material, I have reached the firm conclusion that there are no reasonable prospects of conviction in any of the cases submitted to my office.

"Moreover there are other matters in the public interest which render a prosecution inappropriate. The comparatively recent complaints are of events which occurred many years ago. While the delay in coming forward and making complaints is well understood, and the common experience of the authorities investigating sexual abuse, the staleness of the alleged offence is likely to render the prosecution process oppressive.

"Further, due to the delay, the persons accused of sexual and other misconduct are now in advanced years.

"In the end, prosecutions are instituted in the public interest to further the rule of law. Anger or any other emotion has little to do with the impartial administration of criminal justice.

"It is for all these reasons I have concluded that in respect of the allegations referred to me, there will be no prosecutions instituted."

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