



MEMORANDUM

CROWN PROSECUTION SERVICE

FROM: Matthew McCabe
Assistant Branch Crown
Prosecutor - Ealing

North London Area
Acton Branch Office
Government Buildings
Bromyard Avenue
Acton W3 7AY

TO: Crime Support Group
SOUTHALL POLICE STATION - XS
fao : W/PC Moore
Child Protection Team

Tel [] DPA []

REF: [] DPA []

DATE: 14 July 1992

Re : David Maurice PEARCE

Thank you for sending me the Police file relating to the above named for advice.

This case concerns an alleged indecent assault of a 10 year old boy, [] RC-A595 [], by the Headmaster of St Benedict's Junior School, Ealing, Father David Pearce.

By the very nature of the incident, there is no corroboration of the indecent assault, and no medical evidence available which might confirm that an indecent assault had occurred. Thus the case against Father Pearce depends entirely upon the credibility of a 10 year old boy.

I have carefully considered the available evidence, and am of the view that it is insufficient to provide a realistic prospect of conviction. In my view there are matters which may be properly put by the Defence to [] RC-A595 [] to undermine his reliability and credibility and additionally to ascribe to him a motive for telling less than the whole truth.

In his witness statement, [] RC-A595 [] alleges that on 4 June 1992 Father Pearce called him into his room following a lecture on the subject of 'Child Abuse'. After eliciting information that his Father had beaten him, that he proceeded to indecently assault [] RC-A595 [] by inserting his finger into [] RC-A595 [] anus.

2./



The alleged offences are strenuously denied by Father Pearce, and there is direct conflict between [RC-A595] and Father Pearce as to the date of the incident which gave rise to the allegation. [RC-A595] alleges that he was indecently assaulted on 4 June, whereas Father Pearce contends that his examination to establish whether there were any visible injuries to support [RC-A595] allegation that he had been beaten, occurred on 11 June 1992. This variation is of significance, because if [RC-A595] is correct as to the date (his evidence is confirmed by his sister, Mother and Patricia Allen), then [RC-A595] delayed one week in making complaint of indecent assault to his sister. If Father David is correct, then complaint was made on the day that he alleges that he examined [RC-A595] and then arranged a meeting between Patricia Allen, [RC-A595] Mother of [RC-A595] and himself.

In any case involving an allegation of indecent assault, it is important to examine the terms of the complaint made to establish whether or not the complainant has been consistent in the account that he or she has given. In his witness statement [RC-A595] states that he was indecently assaulted on 4 June 1992 in Father David's office. [RC-A595] alleges that Father Pearce locked the office door, told him to take down his shorts and pants, and then indecently assaulted him by rubbing his bottom, and then inserting his finger into [RC-A595] bottom to a depth of about 1 cm over a period of approximately 3 minutes. Following the indecent assault [RC-A595] alleges that Father Pearce told him "It's best if we keep this our secret for now". [RC-A595] claims that during the following week he did not see Father David until the 11 June 1992, the date upon which the meeting between Father David, Mother of [RC-A595] [RC-A595] and Social Services occurred. Following this on the night of 11 June 1992, [RC-A595] states that he told his sister, [sister of RC-A595] 'what had happened'.

[sister of RC-A595] states that on the night of 11 June 1992, [RC-A595] told her that "Last week Father David had poked his bottom with his finger" [sister of RC-A595] states that later that night she told her Mother what [RC-A595] had told her. There is however a variation between [sister of RC-A595] account and that of Mother of [RC-A595] Mother of [RC-A595] in her witness statement indicates that [sister of RC-A595] had told Father of [RC-A595] and her 'that [RC-A595] had told her that Father David had taken [RC-A595] to his office and told him to take down his shorts and pants to examine him for bruises or for marks or something'. Apparently no mention was made by [sister of RC-A595] to Mother of [RC-A595] of the principal allegation that Father Pearce had indecently assaulted [RC-A595] by inserting his finger into his anus. On the following morning Mother of [RC-A595] states that when she questioned [RC-A595] she elicited the information that Father David had poked him around the bottom.

Clearly the allegation of indecent assault must be viewed against the background in which it was made, in circumstances where **RC-A595** himself initially made allegations of being beaten by his Father - an allegation which implicitly **Mother of RC-A595** rejects as ill founded or exaggerated. There is however evidence as to the reaction of the family to **RC-A595** allegation that he had been beaten by his Father, to the intervention of Father Pearce and Patricia Allen of Social Services. We are told by **Mother of RC-A595** that she was 'in shock and could not understand' and that her husband was 'very angry and confused about the allegation and told **RC-A595** that he did not wish to see him that day'. Thus it is apparent that **RC-A595** initial complaint incurred the wrath of his Father.

It is not without significance that Patricia Allen states 'from what **RC-A595** had told me, I felt convinced that he had been beaten and emotionally abused at home'. **Sister of RC-A595** also gave a further insight into **RC-A595** disturbed state of mind at the material time when he expressed a desire to commit suicide because he had been branded a thief because of the way he had been treated by Father David over the allegation concerning the theft of a cricket bat (a theft which he apparently had admitted to both Father David and his Secretary). **Sister of RC-A595** states that **RC-A595** was worried about his 11+ examinations and felt as if he would be a failure to our Father. According to **Sister of RC-A595** evidence, **RC-A595** was distressed and swearing, yet made no mention of the indecent assault, which according to his witness statement occurred at about that time.

Clearly, it is open to the Defence to attack **RC-A595** reliability and credibility, and it is likely to be suggested that when **RC-A595** made the allegation to Father David that he had been beaten by his Father, he did not realise the consequences of making such an allegation, and having incurred the wrath of his Father, he made an effort to retrieve the situation and get back into favour by either inventing the allegation or embellishing upon what had occurred when Father Pearce had examined him to see if there was any evidence that he had been beaten.

The Defence also no doubt will make great play of the fact that it is hardly the actions of a man who has just indecently assaulted a child to call in Social Services, in circumstances where a full investigation would be inevitable and, additionally to inform both the Chairman of the Governors and **RC-A595** form master that he proposed to call in the appropriate external Child Protection Agency. Finally, Father Pearce is a man of previous good character and this is a fact which the Jury will be instructed to put into the balance, as weighing in his favour.