

**STATE OF TASMANIA v K**  
**COMMENTS ON PASSING SENTENCE**

**18 AUGUST 2004**  
**BLOW J**

The prisoner has pleaded guilty to indecent assault. In December 2003, when some children were playing near his home, he got one of the children to sit on his knee, put his hand up her dress, and touched her vagina with his finger. She told him to stop, but he did not. He moved his finger across her vagina, causing her discomfort. She struggled to get away, but he restrained her and continued to indecently assault her. His victim was 8 years old. He was a friend of her family.

This crime appears to have had a significant impact on the child. Before it she was a bright, happy, open, communicative girl, and was doing well at school. This year she has been withdrawn, inattentive and difficult. She needs counselling. Appropriate counselling is not available in the town where she lives, and she will therefore have to be taken a long distance for that purpose.

The prisoner is 46 years old. He is a disability support pensioner. Because of his disabilities, imprisonment will be a worse experience for him than it is for most people. He is deaf and practically blind, and has difficulties communicating verbally. He has pleaded guilty, thereby avoiding any need for the child to give evidence. His crime has apparently become public knowledge in the town where he lives, with the result that he and his wife have been insulted in public on occasions, their tyres have been slashed, and other damage has been done to their property. He has kept to himself for some months because he is embarrassed and ashamed about what he did. He has no relevant prior convictions. He is of low intelligence, but nothing was said to suggest that he is of such low intelligence that he did not fully appreciate how wrong his behaviour was.

Because of the prisoner's disabilities, I am going to impose a slightly shorter sentence than I otherwise would. I am also going to suspend part of it, so that he will know that doing anything like this again can result in him going back to prison.

K, I convict you and sentence you to 3 months' imprisonment with effect from 12 August 2004. I suspend 1 month of that sentence on condition that you commit no offence of an indecent or sexual nature within 3 years after your release from prison. I order you to pay a victims of crime compensation levy of \$50 within two months after your release from prison.