

The defendant, GJW, has pleaded guilty to sexual crimes committed against his daughter, namely: two counts of possession of child exploitation material, one count of producing child exploitation material, six counts of penetrative sexual abuse of a child or young person, three counts of indecent act with or directed at a child (or young person), six counts of indecent assault, and two counts of rape. He has also pleaded guilty to four summary offences of observation or recording in breach of privacy contrary to s 13A of the *Police Offences Act* and dealt with by virtue of s 385A of the *Criminal Code*. Two of these summary offences involve his daughter, referred to in these comments as the complainant, and two involve his former partner and the mother of the complainant, referred to as Ms P in order to preserve her anonymity. He has pleaded guilty to three counts of rape committed against Ms P.

The crimes were committed in 2023, from March to October. The background to these crimes is as follows. The defendant lived with his partner and their two children, a son who is now nine, and the complainant, at Rokeby. The defendant and his partner had been in a relationship for approximately 22 years. The defendant was aged 51, his partner 52, and their daughter was aged 11 and in grade 6. At the time, both the defendant and Ms P were employed and worked full-time.

The sleeping arrangements were that Ms P and the defendant slept in separate rooms. Ms P shared a room with their son, the complainant had her own room, and the defendant slept on the couch in the lounge room, which was regarded as his bedroom. Over time, it was no longer used by the family as a lounge room.

At a time between January and March in 2023, the defendant hid a mobile phone inside a cardboard box with a hole cut out in his daughter's bedroom. The complainant discovered the phone and looked through it and found multiple recordings of herself, which she deleted.

On 2 March 2023, the defendant placed a security camera he had purchased underneath his daughter's bed. The camera was connected to the defendant's mobile phone via a live-streaming application. Using this application, he ensured the camera was positioned as he wanted.

For several months, the defendant monitored his daughter's bedroom and her movements within it. He watched her dressing, undressing, and masturbating, all when she believed she was in private. This conduct falls within the ambit of the two summary offences observation or recording in breach of privacy concerning his daughter.

In approximately August 2023, the defendant spoke to Ms P about so-called concerns he had regarding their daughter and what he said he regarded as age inappropriate and sexualised behaviour. He told her he had located several recordings saved on the family Samsung tablet, where the complainant appeared to be masturbating. In speaking about this, the defendant made comments about specific moments within the recordings and sections of the video he wanted to show Ms P. He was able to select exact moments within the recordings and appeared familiar with them. The conversation caused Ms P great distress, but the defendant said he had spoken to the complainant who told him she was too uncomfortable to discuss the recordings with her mother. Ms P believed the defendant and, consequently, did not speak to her daughter about the recordings. The defendant lied to Ms P about his conversation with the complainant.

In early October 2023, Ms P saw the security camera which had been moved by the defendant from under the complainant's bed to the bookshelf in her bedroom. Ms P asked her daughter about the camera, and she said the defendant was a 'pervert'. On 10 October 2023, Ms P informed the police about the camera, provided an SD card which she had removed, and the Samsung tablet, which led to a police investigation.

On 10 October 2023, police conducted a search of the home and seized the defendant's Samsung mobile phone, a hard drive tower, the security camera which was found on a bookshelf in the complainant's bedroom facing her bed, and a Toshiba laptop.

A preliminary examination of the defendant's mobile phone revealed a video recording of the complainant in her bedroom, behaving in a sexually provocative manner and close vision of her vagina and anus. This video falls within category 1 child exploitation material according to the Australian Child Abuse Schema. (Count 1)

That evening, the complainant was interviewed by police. She told them she felt uncomfortable about having the camera in her room and had told her father multiple times. He told her the camera was there to watch the cats and he told her not to tell her mother about the camera. She told police she had unplugged it repeatedly because she did not want him to watch her but when she did this, he would hide it again. The recordings were without her permission. She did not at that time disclose that the defendant had been sexually abusing her.

The defendant was interviewed that evening and lied to police, saying he had placed the camera in his daughter's bedroom to monitor what was going on outside the house or to ensure the safety of the children prior to his and his partner's return from work.

The defendant's devices were sent for forensic analysis.

An investigation of the defendant's mobile phone located multiple videos obtained from the security camera application.

The videos depicted the complainant in her bedroom and unaware of the camera. There was a total of 24 videos showing the complainant in various states of undress and recording her undressing, dressing, watching videos on her computer, and sleeping. Six showed her naked and are classed as category 3 recordings. All videos were taken at a time and place where a reasonable person would expect to be afforded privacy. These videos also fall within the ambit of the two summary offences of observation or recording in breach of privacy.

There were also multiple recordings of Ms P made between January and July 2023. One video shows Ms P sound asleep in the lounge room, naked and wearing an open dressing gown. The recording shows the defendant approaching her and taking a close-up video of her genitals and breasts. Two other recordings show the defendant and Ms P engaged in consensual sexual intercourse. Ms P was unaware of a recording taking place. The defendant set the camera up to record the sexual act while Ms P's view of the camera was restricted. In both videos, the defendant moved the camera hurriedly at the conclusion of the sexual acts. These recordings fall within the two summary offences of observation or recording in breach of privacy concerning Ms P.

All recordings were taken at a time and place where a reasonable person would expect to be afforded privacy. Ms P and the complainant did not know of or consent to any videos being recorded.

The defendant videoed himself sexually abusing his daughter. Forensic examination of the hard drive computer revealed eight occasions of abuse which were all recorded in video.

In a recording taken on 15 March 2023, a 30-minute video showed an occasion involving penetrative sexual abuse of a child and performing an indecent act directed at the child. (Counts 2 and 3).

The child was seated naked on a chair in her bedroom, partially covered by a blanket. The defendant removed the blanket and rubbed the outer area of her vagina, then penetrated her vagina with his fingers for several minutes. He then lay down on the floor, removed his trousers, and exposed his penis. He masturbated for several minutes using his hand and a vibrator, all in view of the complainant.

In a recording taken on 16 March 2023, a video lasting 1 hour and 18 minutes records the defendant committing crimes of indecent assault and penetrative sexual abuse of a child. The recording shows the complainant sitting on the couch in the lounge room watching an electronic tablet. The defendant approached her and moved her legs apart, exposing her vagina to the camera. Using a razor, he shaved her vagina and rubbed the outer area of her vagina for an extensive period of time, then penetrated her vagina with his fingers, committing the crimes of indecent assault and penetrative sexual abuse of a child. (Counts 4 and 5)

In a recording made on 17 March 2023 for 43 minutes, the defendant is recorded committing the crime of indecent assault. The complainant was in the lounge room wearing a set of virtual reality goggles. The defendant shaved her vagina and rubbed her upper thighs and vagina. (Count 6)

On 19 March 2023, the defendant again recorded himself sexually abusing his daughter in a video that lasted an hour and 15 minutes. The recording shows the complainant asleep on the couch in the lounge room. The defendant removed his trousers and underwear and masturbated while she remained asleep, at one stage placing her hand on his penis. The recording shows him repeatedly touching the complainant's exposed breasts, committing an indecent assault. He then penetrated her vagina with his fingers while she slept, committing the crime of rape. He continued to masturbate his penis while positioned close to her face. He tried to use one of her hands to masturbate his penis. He then penetrated her anus with one of his fingers, committing the crime of rape. She then appeared to wake momentarily and move her legs, and the defendant stopped. (Counts 7, 8 and 9)

On 23 March 2023, the defendant recorded himself sexually abusing his daughter. The duration of the video was three hours and shows the complainant asleep on the couch in the lounge room and the defendant committing the crime of indecent assault by touching her vagina, then using a vibrator and moving it around the outer area of her vagina. The complainant woke up and the defendant moved her into a position to expose her vagina to the camera. The defendant led the complainant away from the camera for approximately 20 minutes and then, on returning, the complainant can be seen wrapped in a towel with wet hair. The defendant moved the complainant into a position so that her exposed vagina is in view of the camera. He exposed his penis and masturbated in front of her, committing the crime of indecent act directed at or with a child. He then shaved her underarms and vagina with a razor, and rubbed her upper thighs and vagina, committing the crime of indecent assault. The defendant then penetrated

her vagina with his fingers and the vibrator, committing the crime of penetrative sexual abuse of a child or young person. (Counts 10, 11, 12 and 13)

On the same date, 23 March 2023, the defendant made a second recording which was two hours and ten minutes in length. The complainant was in the lounge room and the defendant had positioned the complainant so that her exposed vagina was facing the camera. The recording showed the defendant repeatedly penetrating her vagina with his fingers and the vibrator used before, thereby committing the crime of penetrative sexual abuse of a child or young person involving multiple occasions of penetration as a course of conduct. (Count 14)

There was a video recorded on 24 March 2023 with a duration of one hour and three minutes. The recording displayed the defendant approaching his daughter whilst she was sitting in the lounge room. She had wet hair and was wrapped in a towel. The defendant touched her exposed breasts, committing the crime of indecent assault. He then penetrated her vagina with his fingers, a large dildo, and a massage gun, thereby committing the crime of penetrative sexual abuse of a child or young person. (Counts 15 and 16)

There was a second recording taken on the same date which went for two hours and 11 minutes. It showed the complainant in the lounge room and the defendant taking off his trousers and underwear and exposing his penis and masturbating in front of his daughter, committing the crime of indecent act with or directed at a child (or young person). He then penetrated her vagina with the same dildo and massage gun as before, committing the crime of penetrative sexual abuse of a young person. (Counts 17 and 18)

By recording his crimes, the defendant produced child exploitation material contrary to s 130A of the Criminal Code. (Count 19)

Other recordings of his daughter were located on the defendant's desktop computer hard drive which are classified as category 1 child exploitation material and give rise to the crime of possession of child exploitation material contrary to s 130C of the Criminal Code (Count 20). There were 8 videos relating to six dates in the period from October 2022 to May 2023 and show the complainant in her bedroom, masturbating, including inserting items such as a dildo, vibrator, and massage gun into her vagina. Included were items that the defendant had used when sexually abusing her.

A review of the defendant's computer tower also located multiple recordings of Ms P which he had made without her knowledge and without her consent.

A recording taken by the defendant on 4 May 2023 showed them engaged in consensual sexual activity and Ms P falling asleep. While she was asleep, the recording showed the defendant penetrating her vagina with his fingers and hand. After several minutes, Ms P woke up and moved her legs so the defendant could not continue. The defendant's conduct was without her consent, and he thereby committed the crime of rape. (Count 21)

A recording taken by the defendant on 25 June 2023 showed the defendant and Ms P engaging in consensual sexual activity in their lounge room. Ms P fell asleep, and the defendant penetrated her vagina with a large dildo, committing the crime of rape. (Count 22) After some time, Ms P woke, and he continued with this action for several minutes before stopping.

A third recording was taken on 27 July 2023 and shows the defendant and Ms P engaging in consensual sexual activity. Ms P fell asleep and while she was asleep, the defendant penetrated

her vagina with his fingers. He moved the recording device closer to her to record her exposed vagina. After several minutes of continuing to penetrate her vagina with his fingers, Ms P woke up and the defendant knocked the recording device to the floor. (Count 23)

On 30 November 2023, the defendant attended the Hobart Police Station where he was arrested. He declined to participate in another interview with police. He was refused bail and has been remanded in custody since then in relation to the crimes before the court.

I have been provided with victim impact statements from Ms P and the complainant. Ms P read her statement to the court. Her life has been irrevocably harmed by the crimes committed by her former partner. She had a professional career which she is now not able to pursue, initially because of the need to provide emotional support for her children, and then because of the toll the crimes have had on her mental health and the doors which have closed to her. She feels betrayed and unable to trust again. In moving terms, she describes the worst consequence of all, which is the trauma and harm caused to her talented and intelligent daughter, and her anguish as a mother.

It is disturbing to see that she says she will always blame herself for the harm and that feels she should have realised and not trusted her partner. It is vital to remember that any such blame is completely misplaced. The defendant is solely and completely responsible for the devastating harm he has caused, and he will be sentenced accordingly. Unfortunately, it is not uncommon for an innocent parent to feel a sense of failing the child, but the reality is that such abuse was beyond the parent's comprehension.

I have been provided with a victim impact statement from the complainant which was read on her behalf. She documents the devastating effect of the defendant's conduct in terms of her education, her social and day to day life, and her continuing distress and emotional turmoil. She describes flashbacks and in compelling terms her anger that he did that to her and that she had no choice. She is receiving counselling, and it is hoped that that will assist. She is a young person who has shown real courage in the face of a terrible ordeal, and in what must have been the difficult task of providing her victim statement. The Court is grateful for the provision of victim impact statements as they provide essential insight and contribute to the Court's knowledge about the impact of such crimes on child victims.

I have a report from the Sexual Assault Support Service, therapeutic specialist Pippa Johnson, which provides further insight regarding the extensive and serious emotional harm caused to the complainant.

In determining the sentence, I must take into account the defendant's personal circumstances. He is 52 years of age, and he has no relevant prior convictions.

He had a fractured childhood, marred by poor parenting and instability. His father was an alcoholic, and his mother suffered from poor mental health and was frequently hospitalised. He was placed in foster care on multiple occasions. He was subjected as a child to incidents of sexual assault.

He is industrious and has a strong work ethic, reflected in a solid employment history. In prison, he is working in a coveted role of bulk store supply person.

He worked as a chef for many years and then as a disability support worker, teaching people how to cook, which he found very rewarding. He realises his criminal conduct will likely

preclude him from being able to return to that line of work, which he finds distressing. His family life was happy for a time until some years before these crimes when there were difficulties and resentment, and he became depressed and resorted to drug use. In the period leading up to these crimes, his depression symptoms had worsened and his drug-taking increased, and it seems heavy drug consumption was a factor in his offending, but this of course does not reduce in any way the seriousness of his offending or operate as a factor in mitigation.

He is deeply ashamed and remorseful of his conduct and the effect it has had on his children and his estranged partner. He accepts responsibility for his conduct and acknowledges his gross breach of trust as a father and partner, and the destructive impact of his conduct on his family. He realises that he will have to live with the knowledge of the harm he has caused for the rest of his life. He feels deeply the loss of his relationship with his children and his role as a father, for which he bears responsibility.

He wishes to understand the reasons for his offending and is determined to do all he can to improve himself and address any underlying factors. He is willing to engage in a sex offender program.

I have a report from forensic and clinical psychologist, Dr Georgina O'Donnell, dated 23 September 2024 and she states his offending behaviour is reflective of two types of paraphilia – voyeuristic disorder and paedophilic disorder. She states his paraphilic disorders may have origins in his troubled background, particularly noting they involve incidents of sexual acts that occurred in a family context. It is also noted that such issues can be associated with the development of depression.

There is the possibility that his background and childhood experiences are implicated in his disorders and his offending. There is, however, no positive assertion by Dr O'Donnell of a causal link that reduces his moral responsibility for his criminal behaviour. In sentencing the defendant, I do not regard his high level of moral responsibility as reduced.

Dr O'Donnell notes he is likely to benefit from individual therapy to explore his childhood experiences and to directly address his paraphilic interests. She is specific about the type of individual therapy and how it may be accessed on-line by the prisoner, or a local therapist, which is useful information for the prison. He is also likely to benefit from participation in the group program for sexual offending behaviour that is offered within the prison. Individual and group therapy are seen as integral to the prevention of further offending.

His willingness to engage in therapy and counselling in the future is a positive factor in his favour as it enhances his prospects of rehabilitation and addresses his risk of reoffending.

The three occasions of rape are serious crimes committed against an unsuspecting sleeping woman in her own home by someone she trusted, her partner. The defendant secretly filmed his sexual acts on each occasion for his own sexual gratification, and his conduct involves both a high degree of moral responsibility and a gross breach of trust. It is noted that the purpose of the recordings was for his own sexual gratification and not for the purpose of distribution, and I note they were not distributed.

General deterrence and denunciation are important sentencing goals.

The sexual crimes committed against his daughter involve grave criminal conduct which must be reflected in the sentence. There are eight separate occasions of sexual abuse. On six of the

occasions, he committed penetrative sexual abuse, and on one occasion two rapes were committed while the complainant was asleep. Most occasions involve more than one criminal act. Some occasions involve exposing the complainant to the defendant's masturbating activity, which further sexualised the complainant. His abuse was comprehensive and multi-faceted. This was depraved conduct in which the defendant treated his daughter as a sexual object, manipulating her body and placing it at angles that could be captured on a camera to gratify himself and his perverse sexual interest.

There are aggravating factors which must be taken into account. The crimes were committed when the complainant was a child, only 11 years of age. She was subject to added degradation and humiliation beyond the crimes themselves, with the defendant using objects to penetrate her vagina, shaving her vagina area, and subjecting her to sexual abuse for prolonged periods of time with respect to a number of the incidents. The filming of the abuse added to her degradation and is the subject of a charge, namely production of child exploitation material.

It is noted the material he produced was for his own sexual gratification and not for distribution, and that it was not distributed.

His crimes involve an appalling breach of trust. The complainant was in his care and under his supervision and authority. He was her father. He not only breached her trust but the trust of the complainant's mother, as well.

The defendant's moral culpability with respect to all of his criminal conduct regarding the complainant is very high. Aspects of his behaviour revealed a level of calculation and resolve. I note here, for example, his conversation with his partner in which he expressed his so-called concern for their daughter's sexualised behaviour and the lies he told his partner about the conversation with his daughter. As he embarked on a course of sexually abusing his daughter, there was plenty of opportunity for him to reflect on his behaviours and seek intervention or simply desist, but he did not, and in fact continued in a determined fashion.

All of the crimes are serious, but the crimes of penetrative sexual abuse of a child are particularly serious examples. In this case, the child's submission to the acts of abuse must be viewed in the context of her age, and her father's authority and clear expectation of her compliance. It is a product, too, of a background of grooming, including the defendant's monitoring and recording of the complainant, and his conduct in overriding her express wish for privacy, denying her agency, and demonstrating a complete disregard for her basic right in this regard.

In light of all of these considerations, a heavy sentence is required. The sentence must be effective as a general deterrent in order that the Court fulfills its duty to protect children from such abuse. The crimes are anathema to our community and denunciation is important for this reason and to reflect the profound harm caused.

For the indictable crimes, I will impose two terms of imprisonment; a global sentence with respect to the crimes committed upon your daughter, and a global sentence with respect to the three counts of rape involving your former partner. The sentences in each case must justly and fairly reflect all of your criminal conduct and be heavy enough to adequately address the number of crimes and the gravity of them. I have moderated the sentence to take into account that some of the crimes involving your daughter arise from a single episode of offending and that the episodes occurred as course of conduct. I have checked the sentences imposed to

ensure they are just and appropriate and not disproportionate to the totality of that criminal behaviour.

I reduced the sentences for your pleas of guilty and associated remorse. I take into account that the case against you was particularly strong but that you indicated your pleas of guilty at an early stage and were motivated to do so by remorse and a wish to spare your family ongoing stress. The certainty of outcome that resulted from your pleas saved the State the expense of preparing this case for trial and relieved the complainant and Ms P the distress of giving evidence.

In determining the appropriate sentence for the crimes relating to your daughter, I allow a reduction of 25%.

I record convictions. In relation to the crimes on indictment committed against your daughter, counts 1-20, I impose 12 years' imprisonment backdated to 30 November 2023.

If not for your pleas of guilty, I would have imposed a sentence in the order of 16 years' imprisonment.

For the associated two summary offences of observing or recording in breach of privacy contrary to s 13A of the Police Offences Act, there is a maximum penalty for each offence of 12 months' imprisonment. I impose a total sentence of 9 months' imprisonment to be served at the same time as the sentence of 12 years.

In relation to the crimes regarding your former partner, I allow a similar discount. I record convictions and I impose 3 years' imprisonment. If not for your pleas of guilty, I would have imposed a sentence in the order of 4 years. The two offences of observing or recording in breach of privacy contrary to s 13A of the *Police Offences Act* are inextricably linked to the crimes of rape, adding to the degradation involved in the crimes. To a degree, I have already taken into account that degradation in sentencing for the crimes of rape. For those two offences, I impose an additional period of 7 months' imprisonment, amounting to 3 years and 7 months' imprisonment. Two years of that period of 3 years and 7 months is to be served cumulative to the sentence I have just imposed of 12 years.

With respect to the sentence of 12 years, and taking into account the positive factors that I have referred to such as your genuine remorse and willingness to address the factors in your offending, I impose a non-parole period of 7 years. With respect to the additional period of 2 years' imprisonment, I allow a non-parole period of one year.

The total periods of imprisonment amount to 14 years' imprisonment, backdated to 30 November 2023 with eight years non-parole.

Pursuant to s 11(3) of the *Sentencing Act*, I must identify the sentence that would have been imposed for each child sexual offence had separate sentences been imposed. This step allows the accused person, the victim, and the community to understand the level of seriousness with which a Court has regarded an individual offence. I take the approach set out in my reasons for judgment in *DPP v BRL* [2023] TASCRA 8 at [71]–[73]; that is, the notional separate sentences do not have regard to totality considerations and are the separate sentences I would have imposed in this case for each offence for this offender given his circumstances after the discount applied in this case for his pleas of guilty which, as I mentioned, is 25%.

For the purpose of s 11(3), the sentence I would have imposed for each offence if dealt with in isolation is as follows:

- Possession of child exploitation material (Count 1 on Indictment) – 6 months' imprisonment;
- Penetrative sexual abuse of a child or young person on 15 March 2023 (Count 2) – 2 years' imprisonment;
- Indecent act with or directed at a child (Count 3) – 7 months' imprisonment;
- Indecent assault (Count 4) – 10 months' imprisonment;
- Penetrative sexual abuse of a child or young person (Count 5) – 2 years' imprisonment;
- Indecent Assault (Count 6) – 10 months' imprisonment;
- Indecent Assault (Count 7) – 5 months' imprisonment;
- Rape (Count 8) – 2 ½ years' imprisonment;
- Rape (Count 9) – 2 ½ years' imprisonment;
- Indecent Assault (Count 10) – 12 months' imprisonment;
- Indecent act with or directed at a child or young person (Count 11) – 6 months' imprisonment;
- Indecent assault (Count 12) – 10 months' imprisonment;
- Penetrative sexual abuse of a child or young person (Count 13) – 2 ½ years' imprisonment;
- Penetrative sexual abuse of a child or young person (Count 14) – 2 ½ years' imprisonment;
- Indecent assault (Count 15) – 4 months' imprisonment;
- Penetrative sexual abuse of a child or young person (Count 16) – 3 years' imprisonment;
- Indecent act with or directed at a child or young person (Count 17) – 7 months' imprisonment;
- Penetrative sexual abuse of a child or young person (Count 18) – 3 years' imprisonment;
- Producing child exploitation material (Count 19) – 2 years' imprisonment;
- Possession of child exploitation material (Count 20) – 6 months' imprisonment.

In relation to the three counts of rape regarding Ms P, counts 21, 22, and 23, pursuant to s 13A of the Family Violence Act, I direct that they be recorded as family violence offences.

I make an order under the Community Protection Offender Reporting Act that your name be placed on the register pursuant to that Act and that you comply with the reporting obligations under that Act for the remainder of your life.

I make an order for the disposal of property on property receipt 230201, namely items 1,2, 5, and 7; and on receipt 226780, items 1 and 2, pursuant to s 130F of the Code. This order will result in the destruction of the recordings.