

You have pleaded guilty to persistent sexual abuse of a child. That crime is committed if a person commits an unlawful sexual act against a child on three or more occasions during the indictment period. To protect her identity I will refer to the victim as A. A was the daughter of good friend of yours and, at the relevant time, you were frequently at their home. She had a younger sister and an older brother. On occasions you were left to supervise the younger children if their parents were out. In about July 2020, not long after A's tenth birthday, you began to touch her in a sexual way. Four occasions of an unlawful sexual act are identified by the prosecution as then having occurred over the following three year period until July 2023. However, those occasions are to be considered in context. Her younger sister also told her that you were touching her, and she observed this to be happening, but no charge arises from that. The touching of A began over her clothing and was usually to the back and chest area. You called her names such as cutie, hot and sexy. The touching became progressively more frequent and serious. There were occasions, not forming part of the charge, on which you, touched her bare upper thigh, back and chest, put her arm around you and put her hand on your leg. Physical intrusion of this type occurred in the lounge of her home, for example when you were sitting together on the couch, and sometimes when you went into her bedroom. Throughout the indictment period you commonly touched her on the breasts, and on one occasion squeezed her breast. She made clear that the contact was unwelcome and unwanted, by pulling away or pushing or hitting your hand away and telling you that what you were doing was disgusting, but it made no difference. She recalled one instance when you went into her bedroom when she was asleep. You were staying overnight and she woke to you sitting on her bed with your hand in her shorts, on top of her hip towards her bottom. She told you to leave and you did.

On another occasion you went into her bedroom and sat next to her on the bed. You put your hand under the blanket and touched her around the stomach, over her pyjamas. She hit your hand away and ran to the lounge room. You asked her to sit on your lap but she refused and went to the bathroom. You followed and touched her on the lower part of her back. The first identified unlawful sexual act occurred later on the same day when her parents were out. She had gone back to bed and was on her phone. You entered her bedroom and touched her under her pyjamas on her chest, just under her right breast. She slapped you on the shoulder, told you to stop and to get out. You were annoyed when she stopped your hand going any higher. That was an indecent assault.

On numerous occasions through the indictment period you masturbated in their presence, either deliberately or openly and regardless of whether you could be seen by A and her sister. One such occasion occurred relatively early in the indictment period, when A was 11. You were in the lounge room with your pants off. She told you to put your pants back on but you did not and started to masturbate. That amounted to the offence of doing an indecent act directed at a child and is an occasion of an unlawful sexual act identified by the State.

On another identified occasion, when you were camping with the family, you touched A on the vagina under her clothing. That constituted an indecent assault.

All of the foregoing conduct is admitted. It is sufficient to make out the charge and forms the basis of your plea of guilty. However, some facts asserted by the State were not accepted by you. The prosecution relied on one other occasion of an unlawful sexual act which was said to have occurred in the first part of 2023 when A was 12. In short summary it was alleged that on this

occasion you went into A's bedroom during the afternoon when she was asleep, held her down and penetrated her vagina with your finger. You denied having committed any such acts. It was also asserted by the State that during the period of the offending you said to A and her sister that if they said anything to anyone about what you were doing you would kill them. You deny having ever made such a statement.

As a result, I heard evidence to resolve the disputes. Facts adverse to you must be proved by the State to my satisfaction beyond reasonable doubt. Some facts asserted by the State which were relevant to the dispute were not challenged. In addition, I heard evidence from A in the form of a recorded police interview conducted on 6 May 2023. She gave evidence on 21 July 2025 and was cross examined by your counsel. You were interviewed by the police twice, first in July 2023 and again on 19 October 2023. Part of the second interview was played as part of the prosecution case. You also gave evidence on oath before me.

I will first examine A's evidence. Her account is given in the interview. She said that this occasion took place in early 2023 when her parents were out and you were supervising. Her sister was in the lounge room with headphones and her older brother was in his room also with headphones. She said that you came into her bedroom and closed the door. You tried to put your hand up her top but it was tucked into her shorts. You got on top of her and tried to take her shorts and your pants off. You held her wrists above her head with one hand and used the other to remove her shorts but not her underwear. You put your finger inside and thrust once before stopping. Afterwards you went to the lounge room and masturbated while watching something on your phone.

As to her evidence that you threatened her and her sister that if they ever told anyone what you were doing you would find them and kill them, the substance of her evidence was that the threat was made only once, but she was scared and believed you would carry out the threat which is why she kept quiet for a long time.

A maintained her account during cross-examination and denied that the idea of digital penetration came from questions asked by her neighbour. She insisted that both the penetration and threats occurred.

In your evidence and interviews you completely denied inserting your finger into A's vagina or using any force to hold her arms down. You said "it didn't happen" and "I don't know why she's saying that". You maintained your denial even after admitting to other sexual abuse in a second police interview. You said that you would not have admitted any of the conduct unless you wished to be honest. You admitted at least one occasion of telling the girls to not tell their mother about your conduct but denied having ever made any threat to kill either of them. You maintained these denials throughout your evidence despite admitting to other sexual abuse of A and her sister. It was argued that it is improbable that you would do such an act while there was a risk of discovery by her brother, especially if she protested and might be heard.

The prosecution case substantially depends on the truthfulness and reliability of the evidence of A. The question for me is not whether I prefer her account or yours. If I concluded that your account of the disputed facts was true, or might reasonably be true, then I could not find the allegations proved. I could not find the allegation proved unless, after carefully and cautiously examining her evidence, and notwithstanding your denials, I was satisfied beyond reasonable doubt that she was both an honest and reliable witness.

I will deal firstly with the allegation of a threat. I would accept that you, at no time, made any genuine threat to kill the complainant if she told her mother. However I am entirely satisfied that words like that were said. It is an easy remark to make and one easily forgotten once made. It is rarely intended to be taken literally. However I am satisfied that for a 12 year old girl in A's position it would be confusing and potentially frightening for her. What is clear is that you conveyed your intention that she keep your conduct a secret and not complain to anyone about it.

As to her allegation of penetration with your finger, identified in the particulars as occasion 2, I find it to be proved. I found A's account compelling and highly convincing. She made a complaint at the time which was consistent with her evidence. I find your denial to be wholly unconvincing and it did not lead me to any reasonable doubt of her version. Her complaint is consistent with the other conduct which you admit. Your admitted conduct included touching her vagina and sexual assaults committed when you entered her bedroom in the face of her obvious protests and other brazen sexual acts regardless of being observed and a risk of discovery. This occasion goes further and is more serious but is an extension of conduct of the same nature. I reject as a reasonable possibility that A has imagined or fabricated this account, which contained the type of detail which I consider to be inconsistent with either scenario. I would not conclude that you have deliberately lied. During your interview and in your evidence you accepted that you were commonly affected by alcohol and attributed at least some of your conduct to the loss of inhibition which resulted from it. In your evidence you said that, even so, you would remember such an occasion if it occurred. I doubt that claim. I think that the combined effect of alcohol and the passage of time leads to the possibility that you have either forgotten this occasion or persuaded yourself that it did not occur. Be that as it may, in all material respects I find A to have been a truthful and accurate witness and I am satisfied beyond reasonable doubt of the truth of her account.

You are now aged 60. You are single. You have two adult children but you are estranged from them. During your life you have maintained regular stable employment. You had held employment for 16 years in the same business before that ended as a result of this matter. You have been ostracised from the church you attended. You have no prior convictions for sexual offending. You have some record for violence including a serious assault against your partner for which you were sentenced to imprisonment in 2002. There is nothing of relevance since then. You are treated by a clinical psychologist for severe post-traumatic stress disorder and major depressive disorder arising from physical abuse by your father and sexual abuse committed by another family member when you were very young. That may explain your resort to abuse of alcohol but it is not suggested that this crime was caused by any mental deficit or condition so as to reduce your moral culpability. I would infer that prison may be more onerous for you but it is a factor of little weight in your sentencing. I am satisfied that you now realise the gravity of what you have done and you are sorry for it, but your repeated offending over time reduces the claim to genuine remorse. You did not stop offending until A told someone what was happening.

It is aggravating that your offences were committed while A was under your care, supervision and authority. She was under the age of 13 years. Most of your offences were committed, although not in the direct presence of another person, while there were persons nearby or within the same house.

Subject to the comments that I have made about the nature and intention of your use of the words complained of, you subjected A to the threat of violence which was capable of being misunderstood by her. Your offending continued for about three years and was in the context of

frequent and regular abuse of her in her home and in a family situation. Given her age she was not capable of consenting but your offending continued despite her distress and resistance.

You are entitled to mitigation from your plea of guilty but the effect of that is substantially reduced because she was not, as a result of the dispute, spared from giving evidence.

The major sentencing factor in matters like this is the protection of children. Sexual abuse of children carries the presumption of harm. The psychological effects of abuse can be severe and lifelong. There is no victim impact statement here but that does not mean that there is no impact. For that reason, sentences must serve to not only punish offenders and vindicate victims, but deter others from similar conduct.

You are convicted on the indictment. I am not satisfied that you do not pose a risk of committing a reportable offence within the meaning of that term in the *Community Protection (Offender Reporting) Act 2005* in the future. I make an order directing that the Registrar cause your name to be placed on the Register and that you comply with the reporting obligations under that Act for a period eight years from your release. You are sentenced to a term of imprisonment of five years from 21 July 2025, the day you went into custody. I order that you not be eligible for parole until having served half of that term.