

STATE OF TASMANIA v GD
COMMENTS ON PASSING SENTENCE

7 AUGUST 2025
WOOD J

The defendant, GD, has been found guilty by a jury of three counts involving sexual crimes against two children. Count 1 is a charge of indecent assault committed against his daughter on a date between 1 November 2006 and 31 December 2008. I shall refer to the defendant's daughter by the initials HD. Counts 2 and 4 are both charges of aggravated sexual assault and were committed against another child, who I shall refer to by the initials LK. The defendant was acquitted of a fourth count involving LK.

In sentencing the defendant, I am required to make findings of fact consistent with the jury's verdict. In order for the jury to find the accused guilty, they had to be satisfied beyond reasonable doubt that with respect to each count, the complainant's evidence was, in substance, both honest and reliable. In determining the facts for each count, I am satisfied beyond reasonable doubt of the honesty and the reliability of the complainants' evidence generally, as well as specifically concerning the defendant's criminal conduct. My findings are as follows.

The background in relation to count 1 is that when the complainant was very young, her parents separated. HD lived with her mother, but stayed overnight with her father on weekends. At that time, he was living alone in his parents' house in Lenah Valley. His mother was deceased, and his father was in a nursing home.

The incident of indecent assault occurred when the complainant was approximately 4 years of age and in kindergarten. She was staying with her father at his home in Lenah Valley. In the evening, after their meal, he told her to lay down on his bed, and he pulled her lower garments down and licked her genitalia, including the area of her clitoris. I note he did not penetrate her vagina. This was not a fleeing act of assault; he persisted, and the complainant's evidence was that it went on for a long time. The complainant could recall spending time looking at the ceiling at the light.

The defendant stopped and went out to the kitchen, and the complainant pulled up her pyjama pants and went out. The defendant was upset and crying. He told her not to tell anyone else, like Mummy, or he would go to gaol.

On a day in October 2009, when the complainant was 6 years old, she told her mother what the defendant had done. In her words, Daddy had licked her "wee-wee", which was the word she used to describe her vagina. She said to her mother that she was frightened her mother would "go mad and that Daddy would go to gaol", because that was what he had told her.

Tasmania Police were notified, and the complainant was interviewed a week or two later. She told police what the accused did to her and was asked what she thought when he did that. She said she thought "yuck".

She was interviewed again by police in March 2023 after the allegations by LK were made. Her account was consistent with what she told police in 2009, described in terms commensurate with her age and maturity.

Soon after the complainant informed her mother in October 2009 of what had happened, the defendant was confronted by the partner of the complainant's mother. The defendant admitted what he had done and started crying.

The defendant was interviewed by police on 9 November 2009 but denied the allegation. A decision was made by authorities, unfortunately, not to proceed further.

After that, he made some admissions to the complainant's mother in text messages which suggest he was accepting responsibility for what he had done. In particular, in one text message, he admitted that he was "very sick and needed help".

The defendant did not seek professional help then or in the years that followed, despite his awareness of his perverse sexual interest in female children and that he needed intervention.

In relation to the two occasions of aggravated assault involving LK, I find as follows.

The complainant's parents were friends with the defendant and his second wife. The defendant had been married for some time and the couple had two children. The complainant was very close to the defendant's daughter, having known her since she was a baby. The complainant was like a big sister and the families spent time together and went on outings, and the two girls communicated with each other most days.

The first of the two incidents happened on the night of 31 October 2015 when LK was approximately 7 years of age. Family members had attended a birthday party in town that evening. The defendant collected the children from the party, and they returned to his house, where LK was staying overnight with the defendant's son and daughter. The defendant's wife was at work.

It was late at night and they were in the defendant's son's bedroom. His daughter was asleep in her cot and the defendant was reading the complainant and his son a book in his son's bunk bed. They were under the doona and the complainant was wearing a nightie. He put his hand on her thigh, then moved his hand and inserted his fingers into her vagina, committing the crime of aggravated sexual assault. It hurt her, she told him it "really hurt", and asked him to stop. He ignored her, however, and continued. The complainant said loudly to stop, and that it hurt.

They moved to the defendant's bedroom at his son's request. The complainant told the little boy to go in the middle. I find she did that in order to avoid being next to the defendant in the bed. The defendant, however, told her to go into the middle and she obeyed. He put his hand on her thigh but did not assault her further.

Either before or after the incident the subject of count 2, in the first half of 2015 or 2016, when the complainant was at most seven years of age, there was an outing on the Derwent River on the complainant's father's boat. The complainant went on the outing with her parents, and the defendant and his wife and children were invited as guests.

The defendant's daughter was an infant, and it was time for her afternoon nap. The defendant took his daughter below deck where there was a bed set up. The complainant enjoyed spending time with the infant and was present. The defendant said to the complainant that his daughter was going to go to sleep and that she could wait there with him. While the complainant was watching the infant going to sleep, the defendant sexually assaulted the complainant, committing the crime of aggravated sexual assault.

The defendant moved her underwear aside and touched her vagina. He put his fingers inside, for a period that she described as, "not very long". When he withdrew his fingers he said, "That

smells good". After that, the defendant and the complainant went up on deck and had lunch with the complainant's family and the defendant's wife and child.

There was context evidence of occasions of sexualised behaviour by the defendant. LK did not like the way he sometimes looked at her and she felt that it was inappropriate. I accept her perspective may have been informed by his criminal conduct and what he had done to her. More overtly, there was an occasion when she was in the bath with the defendant's son. The defendant initiated a discussion about birthmarks, and he took a photograph on his mobile phone of her bottom. There was also an occasion when he sat behind her on a motorbike and she felt him push his hips into her body from behind.

The defendant is not to be sentenced for any of this sexualised behaviour, but it provides insight into how he viewed her and how she felt about the defendant. In relation to the bath incident, it is relevant that this occurred after counts 2 and 4. He should have avoided such a situation. He intruded upon her privacy well aware of his sexual interest in her and that he represented a danger to her.

LK was reluctant to complain about what the accused had done. The defendant's family were her second family, and his daughter was like a little sister to her. She informed a close friend in late 2022 who responsibly urged her to tell her father, and she did. The complainant exhibited significant distress in telling her friend and her father what the defendant had done.

The defendant was interviewed by police in February 2023 and denied the allegations.

The defendant's adult niece heard about the charges involving LK after receiving a message on Facebook. She spoke to the defendant in February 2023 who admitted to her that two of the three charges were true. He told her it was nine years ago and that he'd been "so good since". She sent him a link to a website-providing help to people who are attracted to children. Later in the conversation, he said he did not know what was wrong with him, he cried a lot, and said he could not go to gaol.

Despite his admissions of criminal conduct, in the case of both complainants, he maintained his denials to police and pleaded not guilty. That is not, of course, an aggravating factor, but it means he is not entitled to the discount given to perpetrators who plead guilty and save the victims the significant stress of waiting for trial and the distress of having to give evidence. In the case of both complainants, statutory measures which were invoked such as the appointment of a witness intermediary and counsel's co-operation with the recommendations that were made with respect to cross-examination ameliorated the stress associated with having to give evidence. Nonetheless, their distress was evident.

I have received in this case victim impact statements from both complainants which describe in compelling terms the destructive impact of the defendant's crimes upon their lives. 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 adverse impact of crimes of sexual abuse upon child victims.

Without referring to the statements in detail because it is not possible to do them justice, they reveal profound emotional harm.

In the case of HD, her mother read her statement. HD describes the impact on her as a young child and her overwhelming feelings of fear and confusion. She describes the sense of betrayal

which created a heavy emotional burden and that it has permeated her sense of self, and how she relates to others. She describes the emotional toll on her mother who has been her mainstay of support. It goes without saying that this harm caused to her mother adversely impacts HD's life. She has required extensive professional assistance for the psychological harm she has suffered. She is committed to her recovery. Fortunately, she now appreciates that none of what the defendant did to her is her fault and that it is only he who should feel shame.

In the case of LK, she is still living with the harmful effects of the defendant's crimes which continue to have a significant emotional impact upon her and her relationships. She has lost her second family and a very close friend. The only male figures in her life are her father and her brothers. She is unable to spend time with her father and his friends doing activities she used to enjoy and, sadly for the family, they have not been on the boat since she disclosed what the defendant had done.

It is well understood that the impact of sexual crimes upon children is often extensive, pervasive, and long-lasting, sometimes leading to lifelong harm. The trauma described by both complainants is precisely the kind of harm that is often experienced by victims of child sexual abuse.

The crimes committed in this case are particularly serious. Because of the very young age and innocence of both complainants, they were particularly vulnerable with no capacity to defend themselves from the defendant's abuse. As HD said, she did not have "the power or the words to protect herself". LK similarly describes her innocence and her lack of understanding which was taken advantage of as a child.

At the time of the crime of indecent assault concerning his daughter, and the aggravated assault upon LK in his home (count 2), the children were under the defendant's care and supervision. That fact and the ages of the children are aggravating circumstances pursuant to s 11A of the *Sentencing Act 1997*.

Another factor for the purpose of this section is that the defendant abused LK in the presence of another person; in each case one or both of his children were present.

All crimes involve an appalling breach of trust, the extent and gravity of which must be reflected in the sentence.

As HD's father, it was his responsibility to care for and protect the complainant. Instead, he abused her for his sexual gratification.

In relation to the second complainant, the defendant took advantage of the fact that he was a close friend of her parents and they regarded him as a good family man, and they entrusted their daughter to his care.

He betrayed not only the trust of the victims themselves, but that of his former wife and mother of the complainant, and the parents of LK.

Relevant to a consideration of count 1 is that he silenced his daughter, telling her not to tell her mother or else he would go to gaol. By burdening her with that consequence and taking advantage of her concern for him, he ensured she did not complain for a lengthy period of time.

A relevant factor in assessing the seriousness of the defendant's crimes is the level of his criminal culpability. I regard his culpability as significant. In relation to the crimes committed

on LK, the presence of his infant daughter on count 4, and both his children on count 2, is relevant. The presence of his children should have reminded the defendant of his responsibilities with regard to children in his care, and of the sanctity of childhood.

The fact the abuse took place in the presence of his children is also revealing about his determination to commit these crimes and the strength of his sexual perversion. This is further demonstrated by the brazen way he abused LK with respect to count 4, when he was aware her parents were in very close proximity.

At the time of abusing LK, he knew he had offended in the past. He was someone who had, years before, faced the prospect of being charged and going to prison, yet that did not deter him.

Having sexually abused LK on one occasion, given his awareness of what he had done and the danger he represented, the second occasion involved a particularly significant level of moral culpability.

In determining the appropriate sentence, I must also take into account the defendant's personal circumstances. The defendant is aged 52 and has no relevant prior convictions. He has an industrious work record. He was employed as a welder but lost that employment due to these proceedings. Prior to his incarceration, he was working as a contract painter.

He has been married for 15 years. He and his wife have three children aged 14, 11, and 2. As a consequence of his crimes, and a matter for which he is responsible, his wife will be burdened financially. She will struggle to manage the mortgage commitments and provide for the family. I accept that impact will be felt by him emotionally and cause him concern.

I take into account that his crimes were isolated. He had other opportunities to offend against his daughter but there was no repetition of abuse. This distinguishes him from some other offenders who are sentenced by the courts whose crimes are not isolated acts of abuse.

I take into account the time that has lapsed since the most recent crime, involving a period of almost 10 years. I find on the evidence before me led at trial and the matters advanced in mitigation that this has required resolve on his part. This lengthy period of non-offending is a positive factor I take into consideration.

The lapse of time since offending is not in itself a factor in mitigation. He could have brought these crimes to the attention of the authorities at any time after their commission. The objectives of general deterrence, protection of children, and vindication of the victim are just as important today as they were when these crimes were committed.

The plea in mitigation referred to the fact that the defendant has arranged for the placement of cameras in his own house and locks on certain doors such as bathroom and bedroom doors to ensure he does not commit acts of abuse in that setting.

I accept what I have been told by his counsel in mitigation that he wants to have counselling and therapy and would be co-operative if that was provided. His preparedness to receive help is also relevant to his prospects of rehabilitation.

A significant number of character references have been provided. These speak highly of the defendant's character as a family man, responsible father, supportive and caring husband, a loyal friend, and as someone with a strong work ethic. I note that some of the references refer

to his traits as a parent during or close in time to the period when the crimes were committed in 2015 and 2016. The positive values he demonstrated during or close to the period of offending does not counter in any way the terrible crimes he committed, and should not be taken into account. These character traits were of assistance to the defendant in the commission of his crimes.

In terms of the period after he desisted from offending, the references which were written with an awareness of the court proceedings are given some weight. He is to be distinguished from someone who has not demonstrated those positive qualities since offending. Those qualities are a positive factor in terms of his motivation and capacity for reform.

I accept the defendant is remorseful for his crimes. He became distressed when confronted with his conduct, particularly in relation to the offending against his daughter. However, he also appeared to be motivated by self-protection, and denied his criminal conduct in interviews with police.

GD, the sentence I impose must adequately reflect the nature and gravity of each occasion of abuse, your appalling breach of trust, and the harm suffered by both complainants, their families, and the community. Crimes involving the abuse of children are anathema to our society. Denunciation is an important sentencing goal, the aim of which is to reassert societal values and give proper weight to the harm done to victims.

In determining sentence, the protection of children is a paramount concern and, consequently, general deterrence is a critical sentencing objective. The Court fulfills its duty to protect children from sexual abuse by imposing sentences which will be an effective deterrent to other potential offenders. In light of your personal circumstances that I have referred to, I will allow the minimum non-parole period.

The sentences I impose are as follows. I record convictions. On count 1, concerning HD, I impose 4 years' imprisonment.

On counts 2 and 4, I impose a global sentence of 6 years' imprisonment, 6 months of which is to be served concurrently with the sentence imposed on count 1, taking into account the sentence imposed on count 1 and the need to ensure the aggregate sentence is just and fair.

The result is a term of 9 and a half years' imprisonment backdated to 13 June 2025.

You are to be eligible to apply for parole once you have served the minimum of half of each term of imprisonment.

If I had sentenced the defendant separately for counts 2 and 4, I would have imposed 3 and a half years for each count.

I make an order under the *Community Protection (Offender Reporting) Act* 2005 that the defendant's name be placed on the register pursuant to that Act, and that he comply with the reporting obligations under that Act for 10 years after his release.