

STATE OF TASMANIA v CJ
COMMENTS ON PASSING SENTENCE

3 SEPTEMBER 2026
JAGO J

CJ, you have pleaded guilty to two counts of indecent assault, contrary to s 127 of the *Criminal Code*, although I note that if committed now one of the acts would be defined, at least as, penetrative sexual abuse of a child. Your offending took place between on or about 3 September 1978 and 1 March 1980, now some 47-48 years ago. At the time of the offending, you were aged 16. The complainant was aged six to seven.

In 1979 and 1980, you were boarding with the complainant's grandmother, who was a teacher at your school, in order to attend college and complete your matriculation. The complainant and her older brother would spend three or four evenings per week at their grandmother's whilst their mother was at work. On some occasions, the complainant and her brother would be left alone with you whilst their grandmother visited neighbours to play cards. On two occasions, whilst the complainant was at her grandmother's house, being cared for by you, you indecently assaulted her.

On the first occasion, you called the complainant into your bedroom. You were lying on the bed, and you were holding your erect penis in your hand. You told the complainant to come over to the bed. You directed her to put her mouth around your penis. The complainant did so, initially putting her lips onto the tip of your penis. You told her to open her mouth wider, telling her that your penis needed to go fully into her mouth. You grabbed the back of the complainant's head, and you pushed your penis into her mouth. You ejaculated into her mouth. The complainant spat the ejaculate out. You laughed at her.

The second occasion also occurred when the complainant was left with you, whilst her grandmother was out. By this time, the complainant was feeling uneasy about being in your presence and had complained to her mother about staying with you. This evening, after the complainant's brother had gone to bed, you took the complainant to your bedroom. You removed her pyjama pants and proceeded to lick and suck her vaginal area. The complainant was saying no and started to cry. She yelled out to her brother, who was, at that time, approximately eight years old. He heard the complainant crying and went to your bedroom. He observed the complainant lying on the bed with you kneeling on the floor beside her. When the brother spoke to the complainant, you yelled at him and told him to get out of the room. Because the brother was scared, he left and returned to his room. Once he left the room, you told the complainant she should "just go to sleep". She laid there and you continued to lick and suck her vaginal area. The complainant felt very uncomfortable and willed herself to sleep.

The following day, the complainant's mother asked her why she had been concerned about staying with you. She asked her whether you had ever done anything to her. At that point, the complainant said no. Later, the complainant's mother noticed staining on the inside of the complainant's underwear. She told the complainant that she would be taking her to a doctor. The complainant became upset and said she did not wish to go. Thereafter, the complainant's mother became suspicious and refused to leave her alone in your company. Your contact with the complainant was limited to occasions where other people were present, and no further episodes of sexual abuse occurred.

In April 1996, the complainant's mother saw a newspaper article about your participation in a go-karting event. She contacted you via the go-karting club. During a telephone call, the complainant's mother confronted you and accused you of molesting the complainant when she

was young. You acknowledged that you had done so. Thereafter, the complainant consulted a lawyer in respect to a potential civil claim. An agreement was reached whereby you paid the complainant \$20,000. I am told this payment was made as an acknowledgement of wrongdoing and in recognition of the harm that you had caused the complainant. There was no expectation on your behalf that it would circumvent possible police involvement.

On 18 December 2021, the complainant spoke to police and made disclosures. On 28 December 2021, police contacted you by phone. They outlined the allegations and offered you the opportunity to participate in an interview. You agreed to do so. During the conversation, with police you conveyed remorse for your actions and told police that you "wished to set things right". Thereafter, you stayed in contact with police, although a record of interview did not eventuate. The tenure of your contact with police, however, was that you admitted the conduct and expressed considerable remorse for it.

You were initially served with a summons to appear in the Magistrates Court, before being committed to this Court in January 2024 following a plea of not guilty. The matter was listed to proceed as a trial in the sittings commencing 24 May 2026. The indictment to which you ultimately pleaded guilty was filed on 6 May 2026 and contained slightly different crimes to that with which you were originally charged. You entered your pleas of guilty on 11 May 2026. Your pleas of guilty could not be said to be early pleas, although I am told that there were substantial negotiations which resulted in a previously alleged circumstance of aggravation not being pursued by the State.

The complainant has been terribly affected by your crimes. I have received her impact statement. She has asked I read it to myself, so I will not traverse the content in intimate detail. It is sufficient to say that every aspect of her life has been impacted by your abuse. She has experienced feelings of shame, guilt, worthlessness and inadequacy. She has had difficulty in forming and maintaining trusting relationships. The trauma flowing from your abuse has impacted her role as a parent and has affected the sort of relationship she has had with her children. She has experienced periods of substance abuse and suicidal ideation. She feels she has never reached her full potential. In short, she has struggled daily with the psychological impacts of your criminal conduct.

As noted, you were 16 at the time of the crime. You are now 63 years of age. You have no relevant prior criminal history, and save for some minor and dated traffic infringements, you have not offended in any way since these crimes. You have lived a law-abiding life. You have been married for 35 years and have two adult children. You disclosed your conduct to your wife early in your relationship and she has provided the Court with a letter which indicates you have repeatedly expressed to her your regret. In the early 1990's, you and your wife moved to Queensland where you have developed a successful tyre and mechanical business, which has been operating for over 30 years. In that business you have employed and mentored many young tradespeople. You have also contributed strongly to the community. Whilst raising your children, you were heavily involved in various school organisations and a number of sporting clubs. You coached and mentored young children in various sports. There is no suggestion of any untoward conduct. You have also been heavily involved in a motor sport career, achieving a number of Australian titles. You continue to be involved in various motor sport clubs where you mentor young drivers. You are well regarded, both in your business and in sporting and community circles.

I have received a forensic psychological assessment, authored by Dr Georgina O'Donnell. It indicates that you "spoke openly about the sexual behaviour towards the complainant when he was aged 15 to 16". Dr O'Donnell indicates that you remain confused about why you behaved as you did, but notes you rationalised that you had no prior sexual experience at the time of the incidents and must have had some sexual feelings emerging at that time as you navigated puberty. You acknowledged to Dr O'Donnell that what you had done was wrong and that you needed to "own my mistakes".

Dr O'Donnell notes that you presented as remorseful for your conduct and freely acknowledged the long-term impacts that your conduct has had upon the complainant. Dr O'Donnell opines there are no mental health considerations relevant to sentencing. She also notes that you present with none of the risk factors associated with there being a future risk of sexual offending. In her opinion, the offending is reflective of "opportunistic and curious sexual experimentation by a teenager who had no prior sexual experience at the time and had limited sexual education".

The complexity associated with sentencing adults for crimes which were committed by them as a young person, was discussed in *R v Boland* [2007] VSCA 242, where it was said:

"[Previous decisions] recognise that where offences which have been committed while an offender is a child or immature and are not prosecuted until many years after the event, there is good reason to mitigate penalty, or at least to do so where the offender has achieved a significant degree of rehabilitation and there has been no further offending. Although such an offender falls to be sentenced as an adult, common sense and fairness dictates that the assessment of the nature and gravity of the crime, and of the offender's moral culpability, take into account that what was done was done as a child, or as a person of immature years, and not as an adult or a person of greater maturity".

Such observations are apposite here. You have clearly rehabilitated yourself and you have gone on to become a valued and contributing member of the community. That is a weighty factor towards leniency, but it must be weighed against the fact that whilst you have been able to move forward and enjoy a successful and fruitful life, the complainant has lived with the burden and consequences of your abuse which has marred her ability to enjoy a fulsome life.

There are competing and inconsistent factors which must be balanced here. Given the offending occurred 47 years ago and there is nothing to suggest any repetition of like offending, I am satisfied this was an isolated occurrence, reflective of an immature, sexually inexperienced teenager, rather than some underlying sexual deviance. You have since had the benefit of maturing and reflecting and you have reformed, as evidenced by what you have gone on to achieve in the time since the commission of these crimes. Nevertheless; your conduct and its effects must be seen in a serious light. There are aggravating factors pursuant to s 11A of the *Sentencing Act*, namely the complainant was under the age of 13 years and was under your care and supervision when the crimes were committed. Part of the conduct in respect to the second incident was observed by the complainant's brother, who was a young child himself. Great harm has been occasioned by your criminal conduct. To the extent you are able, you have sought to alleviate the harm by paying compensation and vindicating the complainant by acknowledging your wrongdoing. You co-operated with authorities and you entered pleas of guilty, thereby relieving the complainant from the trauma of having to relive the abuse by giving evidence. I accept the pleas of guilty as reflective of genuine remorse.

Balancing all those matters, I have determined that a period of imprisonment must be imposed to mark the seriousness of the offending, but the execution of the whole of that period of imprisonment should be suspended in recognition of the factors I have outlined.

I make the following orders. You are convicted of two counts of indecent assault. I impose one sentence. You are sentenced to imprisonment for a period of two years and six months. The whole of that sentence of imprisonment will be suspended for a period of two years, on condition that during that time, you commit no offence punishable by imprisonment.

I have given careful consideration to the question of an order under the *Community Protection (Offender Reporting) Act*. The report of Dr Georgina O'Donnell indicates that you present as a very low risk of further sexual offending. Given the period of time that has elapsed since the offending, the maturity which you have acquired in that time, and the strong evidence of reform, I am satisfied that you now pose no real risk and I decline to make an order.