

Cyberpredator

s 204B Criminal Code

From 1 January 2021

Transitional Sentencing Provisions: Each of the two tables is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

agg	aggravated
att	attempted
CEM	child exploitation material
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
PG	plead guilty
PNG	plead not guilty
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
3.	<p><i>The State of Western Australia v Visser</i></p> <p>[2025] WASCA 90</p> <p>Delivered 19/06/2025</p>	<p>28 yrs at time offending. 32 years at time sentencing.</p> <p>Convicted after trial.</p> <p>No criminal history.</p> <p>Born in Perth; grew up in a supportive family.</p> <p>Educated at a private school; Bachelor's degree in exercise sports science, and a graduate diploma in teaching.</p> <p>Good physical health.</p> <p>No drug abuse.</p> <p>Married with supportive wife.</p>	<p>Cts 1 & 2: Using elec comm to expose a person U16 yrs to indec matter. Cts 3, 4, 5 & 7: Agg indec deal with a child U16 yrs. Ct 6: Agg sex pen child U16 yrs. Cts 8 – 13: Indec deal with a child over 16yrs under care, supervision or authority. Ct 14: Sex pen child over 16 yrs under care, supervision or authority.</p> <p>At all material times, the respondent was a teacher a suburban high school. The victim was a student at the school, aged 15, and later, 16 years at the time of the offending.</p> <p>Towards the end of the victim's year 9, the respondent sent the victim a friend request on Snapchat. Eventually, the school principal was informed of what had occurred, and the respondent 'unfriended' the victim on the application.</p> <p><u>Ct 1</u></p> <p>One month later, the respondent again 'friended' the victim on Snapchat, and sent her a series of messages, including a photograph of his penis.</p> <p><u>Ct 2</u></p> <p>Before the next school year commenced, the respondent sent the victim a video of himself masturbating.</p> <p><u>Ct 3</u></p> <p>As the respondent was the victim's outdoor education teacher, he requested that the victim and her friend assist him in the school's bicycle shed. There, the respondent hugged the victim, and later squeezed her buttocks.</p>	<p>Ct 1: 21 mths imp (conc). Ct 2: 24 mths imp (conc) Ct 3: 6 mths imp (cum). Ct 4: 12 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 3 yrs imp (hs). Ct 7: 2 yrs imp (conc). Ct 8: 12 mths imp (cum). Ct 9: 2 yrs imp (conc). Ct 10: 2 yrs imp (conc). Ct 11: 9 mths imp (conc). Ct 12: 16 mths imp (conc). Ct 13: 16 mths imp (conc). Ct 14: 3 yrs imp (conc).</p> <p>TES: 4 yrs 6 mths imp.</p> <p>EFP.</p> <p>The offending was found to be persistent, occurring over a period of eight months.</p> <p>The sentencing judge found that the offending involved a profound breach of trust. The respondent was well aware of the wrongfulness of his behaviour due to his occupation.</p> <p>The sentencing judge found that the respondent had deliberately used snapchat to as a protective mechanism. Relying on the application's instantaneous deletion of messages.</p>	<p>Appeal allowed.</p> <p>Appeal concerned length of sentence imposed on ct 6 and an allegation that the total effective sentence infringed the first limb of the totality principle.</p> <p>Resentenced:</p> <p>Ct 3: 6 mths imp (cum) Ct 6: 4 yrs 6 mths imp (cum). Ct 7: 2 yrs imp (cum). Other sentences unchanged.</p> <p>TES: 7 yrs imp.</p> <p>EFP.</p> <p>At [47] 'the facts of the offending, the other conduct engaged by the respondent, and the aggravating circumstances ... show that the respondent's offending was very serious and involved a high degree of overall criminality.'</p> <p>At [48] 'the respondent abused his position as the victim's outdoor education teacher, and the resulting power imbalance between them, to sexually exploit her on multiple occasions over a period of almost nine months. It is clear that he was sexually attracted to her and pursued her without any apparent regard for her welfare. He used Snapchat to communicate with her in a manner that he believed would not be traced.'</p> <p>At [49] 'even when his initial contact with the victim via Snapchat was revealed, despite his acknowledgement of the wrongfulness of this behaviour towards the victim, he continued to contact her. He sent her indecent material to groom her, following which he indecently dealt with the victim and later sexually exploited her.'</p> <p>At [50] 'the offending was brazen, with counts 3-14 being committed on school grounds and, on some occasions, during schooltime. The respondent contrived situations in which he and the victim could be by themselves. The incidents of offending on the victim's birthday, and those in connection with [ct 10], show the lengths he was willing to go to in order to sexually abuse the victim. When the offending first came to light and an enquiry commenced, the respondent contacted the victim and, in effect, told her to lie; which she initially did.'</p> <p>At [51] 'not surprisingly, the offending has had a very serious adverse psychological impact on the victim, who was highly vulnerable.'</p>

		<p><u>Cts 4-7</u></p> <p>The respondent contacted the victim over Snapchat and asked her to come to the school gym. There, he hugged her and touched her breasts underneath her shirt (count 4). He then squeezed her buttocks over her clothing (count 5). The respondent then placed his hand down her shorts and rubbed her clitoris (count 6). Finally, the respondent took the victim's hand and made her masturbate his penis (count 7).</p> <p><u>Ct 8</u></p> <p>On another occasion, the respondent asked the victim to assist him outside the classroom. The respondent used this opportunity to squeeze her buttocks.</p> <p><u>Ct 9</u></p> <p>On the morning after the victim's 16th birthday, the respondent asked her to meet him in a storeroom before class. There, he took the victim's hand and placed it under his clothing onto his penis.</p> <p><u>Ct 10</u></p> <p>After confiscating the victim's handball, the respondent told the victim to meet him in his office after school. There, he put one ball down his shorts, and asked the victim to retrieve it. He then tried to force her hand onto his penis (count 10).</p> <p><u>Cts 11-14</u></p> <p>On another occasion in the school's storeroom. The respondent kissed the victim (count 11). He then undid her bra and touched her breasts (count 12). The respondent then touched her buttocks (count 13) and inserted one finger into her vagina (count 14).</p>	<p>At [52] 'in truth, there was only modest mitigation available to the respondent. He did not have the mitigation of youth. Nor did he plead guilty. He was brought up in a supportive family environment and is intelligent. He knew that what he was doing was wrong. The fact that he is a man of prior good character is ... of limited weight. The respondent continues to deny his guilt and is without remorse, but it appears that his risk of reoffending is low and he will be supported in the community upon his release from prison.'</p> <p>At [56] ' ... the absence of any meaningful comparable cases does not mean that this court is unable to conclude that the individual sentence on count 6, or the total effective sentence, are infected by implied error. In the end, what is most important in determining the existence of implied error are the particular facts and circumstances of the case at hand having regard to all relevant sentencing factors.'</p> <p>At [58] 'it is important to note that count 6 carried a maximum penalty of 20 years' imprisonment... In the course of this offending, the respondent put his hand down the victim's underwear and then touched her vagina and rubbed her clitoris. There was, as we have said, only limited mitigation for the respondent's offending. The sentence imposed of 3 years' immediate imprisonment is the kind of sentence that might have been imposed had the respondent had the advantage of an early plea of guilty and genuine remorse. To our minds, it is manifestly inadequate having regard to all relevant sentencing considerations ...'</p> <p>At [59] 'the total effective sentence of 4 years 6 months' immediate imprisonment fails to have regard to the seriousness of what the respondent did, its repetition and persistence, and the respondent's abuse of his position of authority as the victim's teacher. It also fails to properly reflect the impact of the offending on the victim. It appears from the sentencing remarks that her Honour regarded the respondent's prospects of rehabilitation as good and it may be that this, together with the respondent's favourable antecedents, is what led to the erroneously lenient sentences... The total effective sentence was not merely lenient. It infringed the first limb of the totality principle and was therefore erroneous.'</p>
--	--	---	---

2.	<p><i>Hinton v The State of Western Australia</i></p> <p>[2023] WASCA 35</p> <p>Delivered on 22/02/2023</p>	<p>23-24 yrs at time offending. 26 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Raised close-knit loving family; family; family remain very supportive.</p> <p>Positive character references.</p> <p>Bisexual; struggled with his sexuality; fearful of being ostracised.</p> <p>Completed yr 12; university studies physical education and teaching.</p> <p>Single.</p> <p>Life revolved around playing and coaching football and cricket; socially isolated since charges came to light.</p> <p>As a consequence of the offending unable to secure employment as a teacher; unable to coach junior sport.</p>	<p>Cts 1, 2 & 4: Using elec comm to expose a person U16 yrs to indec matter. Cts 3 & 5: Distributing CEM.</p> <p>The victim, JD, was aged 15 yrs. Over a period of 12 mths Hinton engaged in online conversations with JD over Snapchat.</p> <p>During the online conversation Hinton requested they exchange nude images of each other. Hinton sent several nude images and a video of himself to JD. The victim did not send any nude images of himself (ct 1).</p> <p>On another date in the same time span, Hinton engaged in further online conversations with JD. During these conversations he sent JD a nude image and video of another teenager, SV, masturbating. JD and SV were known to each other (ct 2). Hinton distributed the image without SV's consent (ct 3).</p> <p>On another date Hinton had further online conversations with JD. During those conversations he sent to JD a nude image and video of another teenager, BH, masturbating. Again, BH and JD knew each other (ct 4). The image was distributed without BH's consent (ct 5).</p> <p>It is not known how Hinton obtained the images and videos of SV and BH.</p>	<p>Ct 1: 18 mths imp (cum). Cts 2 & 4: 18 mths imp (conc). Ct 3: 10 mths imp (cum). Ct 5: 10 mths imp (conc).</p> <p>TES 28 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending serious; there was a nine yr age difference between the appellant and the victim JD; the offending involved three separate teenage victims; it could not be seen as a one-off isolated incident; it occurred over a period of time; was deliberate and persistent in nature and he offended for the purpose of sexual gratification.</p> <p>The sentencing judge found it was not appropriate to susp the term of imp.</p> <p>Genuinely remorseful; cooperative; low risk of reoffending; despite lack of candidness shown in relation to the circumstances of the offence and limited insight and victim empathy.</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences and totality principle.</p> <p>Ct 1: 15 mths imp (cum). Ct 2: 15 mths imp. (conc). Ct 3: 6 mths imp (cum). Ct 4: 15 mths imp (conc). Ct 5: 8 mths imp (conc).</p> <p>At [70] The appellant's offending had a number of serious features, including that the appellant knew that he was conversing with a 15-yr-old. ... While [he] did not directly use his position as a relief teacher and sports coach ... he should have well known the inappropriateness of communicating in this vein with a 15-yr-old.</p> <p>At [72] ... the appellant ... committed these offences for the purpose of sexual gratification. ... [he] sent the images of himself in the hope of inducing the victim JD to produce nude images of himself and send them to the appellant.</p> <p>At [73] Another aspect of the seriousness of the appellant's offending is that, in sending to JD the nude image and videos ... the appellant offended against both the receipt – JD – and the subject of the videos, respectively, SV and BH. The fact that JD and SV were known to each other, as were BH and JD, was liable to magnify the embarrassment and other harm to the boys the very act of transmitting an intimate image of the person without the persons' consent is liable to, and does, create the risk of republication. The existence of that risk, ..., is liable to cause considerable stress for a victim of this kind of offending.</p> <p>At [79] ... the presence or absence of an att to meet the victim and the extent of the risk of the commission of contact offending are of central significance to the assessment of the seriousness of offending against s 204B. ...</p> <p>At [87] ... the appellant's aggregate sentence infringed the totality principle. In our view, the sentence exceeded the bounds of a sentence bearing a proper relationship to the overall criminality involved in the appellant's offending, ...</p>
1.	<p><i>Siriphanuruk v The State of Western Australia</i></p> <p>[2021] WASCA 221</p> <p>Delivered on</p>	<p>38 yrs at time offending. 41 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born Thailand; resident of</p>	<p>Cts 1 & 2: Stalking. Cts 3-5: Producing CEM. Ct 6: Using elec comm to expose a person U13 yrs to indec matter. Ct 7, 9-12: Distributing CEM. Ct 8: Extortion.</p> <p>Siriphanuruk engaged in a sustained</p>	<p>Ct 1: 2 yrs imp (cum). Ct 2: 2 yrs imp (conc). Ct 3: 6 mths imp (cum). Ct 4: 6 mths imp (conc). Ct 5: 6 mths imp (conc). Ct 6: 6 mths imp (cum). Ct 7: 12 mths imp (cum). Ct 8: 12 mths imp (cum).</p>	<p>Dismissed – leave refused - on papers.</p> <p>Appeal concerns length of sentence and totality principle.</p> <p>At [88] ... Individually and collectively, the offending was patently very serious. ...</p> <p>At [92] ... the offences were very serious – indeed, close to being</p>

	23/12/2021	<p>Singapore; not an Australian citizen; good command of English.</p> <p>Mother; two young children in Singapore; not seen children since her arrest.</p> <p>Claims to have a number of university degrees; including in medicine; at time offending making a living from online trading.</p> <p>Diagnosed with and treated for breast cancer on remand; in remission, requires periodic review.</p> <p>Pre-existing cardiac arrhythmia; not requiring treatment.</p>	<p>campaign of intimidation and harassment upon three victims, RJ and his wife A and their daughter R, aged 12-13 yrs.</p> <p>Siriphanuruk lived in Singapore and met RJ on an internet dating site. She and JR communicated for some time before she flew to Perth to meet him. A romantic relationship developed and they frequently spent time together in Perth or Singapore.</p> <p><u>Cts 1 and 2</u> Over a period of about 8 mths Siriphanuruk subjected RJ and A to a series of email barrages. Disguising her identity using multiple personae and email addresses she sent them hundreds of emails using various invented narratives, frequently using highly obscene language. The emails included threats of sexual violence, death threats and details about their daily lives, leading them to believe they were being watched and that their daughter, R, was at real risk of serious physical harm.</p> <p><u>Cts 3, 4 & 5</u> Siriphanuruk obtained digital images of R and superimposed R's face onto the images of a female engaged in sexual activity, creating composite pornographic images.</p> <p><u>Ct 6</u> Siriphanuruk sent R an email attaching three pornographic videos depicting sexual activity among adults.</p> <p><u>Cts 7, 9-12</u> On five occasions Siriphanuruk emailed the composite pornographic images of R to various recipients.</p> <p>She also sent a number of emails that included links to websites to which she had uploaded the composite pornographic images. One of the recipients included an email address</p>	<p>Ct 9: 12 mths imp (conc). Ct 10: 12 mths imp (conc). Ct 11: 12 mths imp (conc). Ct 12: 12 mths imp (conc).</p> <p>All cum sentences cum with ct 1.</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant committed the offences very purposefully with the clear and unequivocal intention of manipulating, harassing and intimidating the victims; her actions cruel and depraved; premeditated; sustained; particularly harmful and she effectively terrorised the victims.</p> <p>The sentencing judge found cts 1 and 2 'grave offences that fell at the top end of the range of seriousness of offences of their kind; the offending was prolonged; extremely distressing to the victims and involved threats of sexual and other violence; some of the emails were the 'most offensive kind' and the appellant went to extraordinary lengths to create in RJ and A sense of helplessness.</p> <p>The sentencing judge described ct 6 as a particularly 'nasty' and 'depraved' offence; cts 7 – 12 were agg by the breadth of the distribution of the composite images of CEM and it was difficult 'to image a more vicious attempt to harm RJ's family'.</p> <p>High degree of psychological distress suffered by victims.</p> <p>No remorse or acceptance of responsibility.</p>	<p>characterised as falling within the worst category. ...</p> <p>At [95] ... Given the seriousness of her conduct in committing cts 1 and 2, it is unthinkable that it could have attracted anything but a term of imp to be served immediately.</p> <p>At [105] ... none of the individual sentences imposed ... could reasonably be said to have been manifestly excessive.</p> <p>At [106]-[107] The appellant's overall offending involved a high level of criminality. ... the offending occurred over an extended period of time and involved the terrorisation of three member of one family, including a child.</p> <p>At [112] ... There is nothing in the appellant's conduct or in her personal circumstances, including her ill health and the fact that she must serve the terms of imp away from her children, which would justify any moderation of general deterrence. The appellant's conduct was sustained over a long period, motivated by greed and revenge, and marked by a cruel and callous disregard of the rights and interests of her victims. Such calculated offending must be denounced by an appropriately lengthy sentence, and those who choose to engage in it must expect substantial punishment.</p>
--	------------	---	---	--	--

			<p>associated with R’s school</p> <p><u>Ct 8</u> In an email sent to RJ and A, purportedly by a woman with whom RJ had once been in a relationship, Siriphanuruk demanded US\$10,000. In the email she threatened to distribute the CEM images she had created of R and harm her if the demand was not met.</p>		
--	--	--	---	--	--

Office of the Director of Public Prosecutions