

SUPREME COURT OF QUEENSLAND

CITATION: *R v DXQ* [2026] QSC 232

PARTIES: **THE KING**
v
DXQ

FILE NO/S: Indictment No [] of 2021

DIVISION: Trial Division

PROCEEDING: Sentence

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 1 October 2026 (delivered ex tempore)

DELIVERED AT: Brisbane

HEARING DATE: 16 and 17 March and 17 September 2026

JUDGE: Williams J

ORDER: **THE COURT ORDERS THAT:**

- In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 2 – Facilitator B		
Count	Term of imprisonment	To commence on 1 October 2026
4	11 years	To commence on 1 October 2026 and to be served concurrently with the sentence imposed in relation to Count 3 .
3	11 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
5	4 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 4 .
6	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
7	2 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 4 .

9	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
10	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
12	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
13	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
15	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .

2. **In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 5 – Facilitator F		
Count	Term of imprisonment	To commence on 1 October 2033
36	6 years	To commence on 1 October 2033 and to be served partially cumulatively on the sentence imposed in relation to Count 4 .
37	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
38	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
39	4 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
40	4 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
41	2 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
42	5 years	and to be served concurrently with the sentence imposed in relation to Count 36 .

43	5 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
44	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .

3. **In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 1 – Facilitator A		
Count	Term of imprisonment	To commence on 1 October 2037
1	4 years	To commence on 1 October 2037 and to be served partially cumulatively on the sentence imposed in relation to Count 36 .
2	3 years	and to be served concurrently with the sentence imposed in relation to Count 1 .

4. **In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 4		
Count	Term of imprisonment	To commence on 1 October 2038
45	6 years	To commence on 1 October 2038 and to be served partially cumulatively on the sentence imposed in relation to Count 1 .
46	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
47	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
48	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
49	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .

50	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
51	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
52	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
53	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
54	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
55	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
22	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
23	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
24	5 years	and to be served concurrently with the sentence imposed in relation to Count 45.
26	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
27	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
28	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
29	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
30	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.

31	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
32	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
33	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
34	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
35	2 years	and to be served concurrently with the sentence imposed in relation to Count 45.
62	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
63	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
64	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
65	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
66	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
67	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
68	3 years	and to be served concurrently with the sentence imposed in relation to Count 45.
69	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.
70	4 years	and to be served concurrently with the sentence imposed in relation to Count 45.

71	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
----	---------	---

5. **In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 3		
Count	Term of imprisonment	To commence on 1 October 2040
78	5 years	To commence on 1 October 2040 and to be served partially cumulatively on the sentence imposed in relation to Count 45 .
80	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
17	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
19	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
20	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
21	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
56	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
57	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
58	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
60	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

61	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
73	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
74	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
76	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
77	18 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
84	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
85	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
86	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
87	2 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
89	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
90	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
91	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
92	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
93	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

94	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
95	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
96	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
97	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
98	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
99	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
101	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
104	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
105	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
107	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
108	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

6. **In respect of the following counts, you are convicted and sentenced as follows:**

Sequence 6		
Count	Term of imprisonment	To commence on 1 October 2040
82	2 years	To commence on 1 October 2040 and to be served concurrently with the sentence

		imposed in relation to Count 78.
83	4 years	and to be served concurrently with the sentence imposed in relation to Count 78.
102	3 years	and to be served concurrently with the sentence imposed in relation to Count 78.
103	2 years	and to be served concurrently with the sentence imposed in relation to Count 78.
109	3 years	and to be served concurrently with the sentence imposed in relation to Count 78.
111	3 years	and to be served concurrently with the sentence imposed in relation to Count 78.
112	9 months	and to be served concurrently with the sentence imposed in relation to Count 78.
113	18 months	and to be served concurrently with the sentence imposed in relation to Count 78.

7. Pursuant to section 19AB(1) of the *Crimes Act 1914* (Cth), I fix a non-parole period of 12 years.
8. Pursuant to section 159A of the *Penalties and Sentences Act 1992* (Qld), as applied by section 16E(2) of the *Crimes Act 1914* (Cth), I declare the time of 2,503 days of presentence custody served by you from 24 November 2019 to 30 September 2026, to be imprisonment already served under the sentences imposed in respect of counts 1-7, 9, 10, 12, 13, 15, 17, 19-24, 26-58, 60-71, 73, 74, 76-78, 80, 82-87, 89-99, 101-105, 107-109 and 111-113.

CATCHWORDS: CRIMINAL LAW – SENTENCE – where the defendant has pleaded guilty to 98 counts – where three of the counts are offences against s 272.8(2) read with s 272.11(1) of the *Criminal Code Act 1995* (Cth) which have a maximum sentence of 25 years imprisonment – other offending caused children in the Philippines to engage in sexual intercourse, amongst other sexual acts, on the instructions given by the defendant located in Australia through a live stream chat

service – where it is submitted that due to the large number of counts, victims, and variation in offending, applying the *Nagy* approach of a head sentence on the most serious count and wholly concurrent sentences on the remainder would not reflect the defendant’s overall criminality – where it is submitted that a hybrid approach of applying the *Nagy* approach for head sentences on each sequence, and directing a partial accumulation with staggering commencement dates for each sequence, as well as a non-parole period, is appropriate – whether a hybrid approach to the sentencing structure should be applied which reflects the defendant’s overall criminality

Crimes Act 1914 (Cth) s 16A, s 16E, s 16F, s 17A, s 19 s 19AB, s 19AL

Criminal Code Act 1995 (Cth), s 272.8, s 272.9, 272.11, s 272.14, s 272.19, s 272.20

Customs Act 1901 (Cth)

Penalties and Sentences Act 1992 (Qld), s 159A

Asplund v R [2010] NSWCCA 316, cited

Baden v R [2020] NSWCCA 23, considered

Barbaro v The Queen; Zirilli v The Queen (2014) 253 CLR 58, cited

Bugmy v The Queen (1990) 169 CLR 525, cited

Commonwealth Director of Public Prosecutions v CCQ [2021] QCA 4, cited

Director of Public Prosecutions (Cth) v Watson (2016) 259 A Crim R 327, considered

Director of Public Prosecutions (Cth) v Beattie (2017) 327 FLR 71, considered

Dixon v R [2025] NSWCCA 41

Dixon v The King [2026] WASCA 48, cited

Doig v R [2023] NSWCCA 76, considered

Gulyas v The State of Western Australia (2007) 178 A Crim R 539

Hili v The Queen; Jones v The Queen (2010) 242 CLR 520, cited

Merrill v The Queen [2018] VSCA 62, cited

Pearce v The Queen (1998) 194 CLR 610, cited

R v Charnley [2010] EWCA Crim 1996, cited

R v De Leeuw [2015] NSWCCA 183, cited

R v Gajjar (2008) A Crim R 76, cited

R v Gavel (2014) 239 A Crim R 469, cited

R v Goodwin; Ex Parte Attorney-General (2014) 247 A Crim R 582, cited

R v Harrison; Ex Parte Director of Public Prosecutions (Cth) (2021) 294 A Crim R 1, cited

R v Nagy [2004] 1 Qd R 63, considered

R v Nahlous (2013) 273 FLR 232, cited

R v Ruha, Ruha & Harris; Ex parte Director of Public Prosecutions (Cth) (2010) 198 A Crim R 430, cited

R v Schulz; Ex parte Director of Public Prosecutions (Cth)
 [2023] QCA 150, considered
R v Waters; Ex parte Director of Public Prosecutions (Cth)
 (2023) 15 QR 73, cited
Rivo v The Queen [2012] VSCA 117, considered
Lane v R [2025] NSWCCA 113, considered
Markarian v The Queen (2005) 228 CLR 357, considered
Western Australia v Collier (2007) 178 A Crim R 310, cited

COUNSEL: C O'Connor with E Sargent for the Crown
 D Wilson with K Drew for the defendant (16 March 2026)
 and T Morgans for the defendant (17 September 2026)

SOLICITORS: Director of Public Prosecutions (Commonwealth) for the
 Crown
 Phillips Crawford Lawyers for the defendant (16 March
 2026) and Wallace O'Hagan Lawyers for the defendant (17
 September 2026)

[1] DXQ, you are to be sentenced today in respect of 98 offences on Indictment [] of 2021, being:

- (a) 2 counts of preparing for or planning sexual intercourse with a child outside Australia;
- (b) 24 counts of using a carriage service to cause child pornography material to be transmitted to self;
- (c) 3 counts of persistent sexual abuse of a child outside Australia;
- (d) 2 counts of using a carriage service to transmit child pornography material;
- (e) 12 counts of using a carriage service to solicit child pornography material;
- (f) 3 counts of using a carriage service to access child pornography material;
- (g) 1 count of procuring a child to engage in sexual activity outside Australia;
- (h) 32 counts of preparing for or planning an offence causing a child to engage in sexual intercourse in the presence of the defendant outside Australia;
- (i) 2 counts of encouraging an offence of causing a child to engage in sexual intercourse in the presence of the defendant outside Australia;
- (j) 6 counts of causing child to engage in sexual intercourse in the presence of the defendant outside Australia;
- (k) 8 counts of preparing for or planning an offence of causing a child to engage in sexual activity (other than sexual intercourse) in the presence of the defendant outside Australia;
- (l) 1 count of grooming a child to engage in sexual activity outside Australia;
- (m) 1 count of obstruction of Commonwealth Public Official; and
- (n) 1 count of importation Tier 2 goods.

Guilty pleas and convictions

- [2] On indictment [] of 2021 you were originally charged with 114 counts. On 11 February 2025 the prosecution entered a *nolle prosequi* on 16 counts, being counts 8, 11, 14, 16, 18, 25, 59, 72, 75, 79, 81, 88, 100, 106, 110 and 114. You were formally discharged on those 16 counts on 11 February 2025.
- [3] On 11 February 2025 you were arraigned in bulk on the remaining 98 counts on indictment [] of 2021 and you entered pleas of guilty. The allocutus was administered and you were convicted of the 98 counts.
- [4] The sentence was adjourned to a later date. The sentence was listed for two days commencing on 16 March 2026. On 17 March 2026 the sentence was adjourned as you no longer instructed your then legal representatives.
- [5] New legal representation was appointed and the sentence hearing resumed before me on 17 September 2026. Detailed written and oral submissions were made on behalf of the Crown and on your behalf.
- [6] The maximum sentence for persistent sexual abuse of a child outside Australia – committing offences against s 272.8(2) (sexual intercourse) of the *Criminal Code* (Cth) (**Commonwealth Criminal Code**) on three or more occasions in relation to the same child – being the most serious of the offending, is 25 years imprisonment. This is in respect of counts 3, 4 and 36.
- [7] Your pleas of guilty to the 98 counts are mitigating factors to be taken into account by the Court in arriving at the appropriate sentence. This reflects cooperation with the criminal justice system as it avoided the need for the matter to proceed to trial.
- [8] The first tranche of 28 counts had originally been set down for trial for three weeks commencing on 8 April 2024. The trial of the first tranche was adjourned to commence for 3 weeks from 24 February 2025. You pleaded guilty to the 98 counts on 11 February 2025 just under two weeks before the trial of the first tranche was to commence. In these circumstances, three lengthy trials have been avoided which has some significant benefit to the criminal justice system.
- [9] The Crown contends that your pleas of guilty came at a late stage as the preparation for the trial of the first tranche was well advanced. However, the Crown does accept that there is significant utilitarian value in your pleas of guilty as you have saved the significant further expense and weeks of Court time.
- [10] Perhaps more importantly, your pleas of guilty have avoided three juries having to hear the details of your offending against children, which no doubt would have been very disturbing and confronting for them. This aspect was expressly noted in the written submissions made on your behalf.
- [11] Your pleas of guilty need to be considered in all of the circumstances, including:
 - (a) You were charged on 24 November 2019 and the matter was committed for trial on 27 May 2021. An indictment was presented on 26 November 2021.
 - (b) On 24 March 2023, you were arraigned in bulk on a trial indictment and pleaded guilty to all offences except for 15 counts. The allocutus was

administered, but you raised concerns about the pleas. The pleas were vacated and your legal representatives were granted leave to withdraw.

- (c) An August 2023 trial listing was adjourned.
 - (d) On 4 October 2023 the first tranche was listed for trial commencing on 8 April 2024.
 - (e) After several adjournments of an application under s 590AA of the *Criminal Code* (Qld) (**Queensland Criminal Code**), the application was heard by me on 7 May 2024 and was dismissed on 10 June 2024.
 - (f) The trial was listed again to commence on 24 February 2025 in respect of the first tranche.
 - (g) On 11 February 2025 you were arraigned and pleaded guilty to the 98 counts, with 16 counts being discontinued.
 - (h) The sentence was originally scheduled for 1 and 2 September 2025 but it was unable to proceed due to outstanding steps. The sentence was subsequently listed for 2 days commencing on 16 March 2026 and was adjourned part-heard, to continue on 17 September 2026.
- [12] This is not a case where the victims would have been called as witnesses. However, in all of the circumstances there is significant utility in your pleas of guilty.
- [13] Your guilty pleas must be taken into account and may reduce the sentence that would otherwise be imposed.
- [14] Given the timing of the pleas and the proximity of the commencement of the trial of the first tranche, these pleas of guilty are late pleas. I take into account the late pleas of guilty as a mitigating factor in the sentence being imposed today.

Structure of sentencing remarks

- [15] As part of the single step instinctive synthesis I will consider the following matters:
- (a) Sentencing considerations in respect of the relevant federal offences;
 - (b) The sentence structure;
 - (c) Overview of the offences;
 - (d) Detailed consideration of the facts relevant to the six sequences as identified in the *Redraft of Schedule A – Proposed Sequences of Offences for Partially Accumulated Sentence Structure (MFI S3)*;
 - (e) Antecedents, mitigating factors and other sentencing considerations;
 - (f) Comparative authorities; and
 - (g) The rival contentions.
- [16] The sentencing exercise involves an integrated process directed at the determination of a just sentence, taking into account all of the relevant circumstances and applying all of the relevant sentencing principles. The instinctive synthesis identified in

Markarian v The Queen (2005) 228 CLR 357 at 373-375 at [37] requires a single result to be formulated without breaking down the sentence into component parts.

- [17] The single step instinctive synthesis requires consideration of the relevant sentencing principles, including totality, and the setting of a non-parole period in all of the circumstances.

Sentencing considerations in respect of the relevant federal offences

- [18] All of the offences are under the Commonwealth Criminal Code, except for Count 113 which is an offence under the *Customs Act 1901* (Cth).
- [19] Accordingly, the Court is to have regard to the matters contained in Part IB of the *Crimes Act 1914* (Cth) (**Crimes Act**) in respect to sentencing an offender for federal offences. Section 16A(1) and (2) of the Crimes Act are particularly relevant.
- [20] Section 16A(1) provides that the Court must impose a sentence which is of a “severity appropriate in all of the circumstances of the offence”.
- [21] Section 16A(2) then outlines a list of non-exhaustive matters that the Court must take into account as are relevant and known to the Court. This includes matters such as:
- (a) the nature and circumstances of the offence;
 - (b) if the offence forms part of a course of conduct consisting of a series of criminal acts of the same or a similar character – that course of conduct;
 - (c) the personal circumstances of any victim of the offence;
 - (d) the degree to which the person has shown contrition for the offence:
 - (i) by taking action to make reparation for any injury, loss or damage resulting from the offence; or
 - (ii) in any other manner;
 - (e) if the person has pleaded guilty to the charge in respect of the offence that fact, the timing of the plea and the degree to which that fact and the timing of the plea resulted in any benefit to the community, or any victim of, or witness to, the offence;
 - (f) the degree to which the person has cooperated with law enforcement agencies in the investigation of the offence or of other offences;
 - (g) the deterrent effect that any sentence or order under consideration may have on the person, or on other persons;
 - (h) the need to ensure that the person is adequately punished for the offence;
 - (i) the character, antecedents, age, means and physical or mental condition of the person; and
 - (j) the prospect of rehabilitation of the person.
- [22] Pursuant to s 17A(1) of the Crimes Act, the Court shall not impose a sentence of imprisonment for a federal offence unless the Court has considered all available sentences and is satisfied that no other sentence is appropriate.

- [23] Pursuant to s 19AB of the Crimes Act where the Court imposes an aggregate sentence of imprisonment of more than three years, the Court must fix a single non-parole period. In setting that period, the Court must have regard to all of the circumstances, including the non-exhaustive matters in s 16A(2) of the Crimes Act. However, the weight to be given to these matters in respect of the pre-release period may be different as discussed in *Bugmy v The Queen* (1990) 169 CLR 525 at 531 and *R v Ruha, Ruha & Harris; Ex parte Director of Public Prosecutions (Cth)* (2010) 198 A Crim R 430 at [45].
- [24] Consistent with the authorities, the following matters are of particular significance in the Court setting the pre-release period:
- (a) The nature and seriousness of the offence;
 - (b) The maximum sentence fixed in relation to the offence;
 - (c) The need for the pre-release period to reflect the need for punishment and deterrence;
 - (d) The minimum time that justice requires the offender to serve;
 - (e) The need to provide for mitigation of the sentence in favour of rehabilitation; and
 - (f) The need to protect the community from the offender.
- [25] In accordance with s 16A(1) of the Crimes Act, the Court is to impose a sentence of the severity appropriate in all of the circumstances, including fixing the minimum period that justice requires to be served in custody.
- [26] The comparable authorities assist as yardsticks. However, as considered by the High Court in *Hili v The Queen; Jones v The Queen* (2010) 242 CLR 520 at [36] – [45], there is no “norm” in respect of the relationship between a minimum term and a head sentence in respect of a sentence for a federal offence.
- [27] The head sentence and the non-parole period are both factors that make the sentence a just and appropriate one. As was recently recognised by the Court of Appeal in *R v Harrison; Ex parte Director of Public Prosecutions (Cth)* (2021) 294 A Crim R 1 at [56]:
- “The sentencing factors which count against mitigation may increase the length of the head sentence and also the proportion that the non-parole period bears to the head sentence. The converse applies to sentencing factors in favour of mitigation. Any necessary deterrent and punitive effects of sentences for a particular offence must be reflected both in the head sentence and also in the non-parole period ...”.
- [28] Amendments introduced by the *Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020* (Cth), including to sections 16AAA and 16AAC of the Crimes Act and s 272.30(1) of the Commonwealth Criminal Code, only apply to offences committed on or after 23 June 2020. The current offending occurred before that date and accordingly, the

amendments do not apply to the current sentence. I have not considered the amendments for the purposes of arriving at the appropriate sentence.

- [29] The offending for which you are to be sentenced includes:
- (a) child sexual abuse outside of Australia; and
 - (b) child abuse material.
- [30] It is necessary to consider the sentencing principles relevant to offending of this nature.
- [31] Division 272 of the Commonwealth Criminal Code contains child sex offences outside of Australia. These offences were introduced in 2010 by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act* (Cth) and include provisions which modernise and expand the child sex tourism offences that had earlier been contained in the Crimes Act.
- [32] The Explanatory Memorandum and various authorities identify some of the relevant considerations in relation to these offences.
- [33] The Explanatory Memorandum to the *Crimes Legislation Amendment (Sexual Offences Against Children) Bill 2010* (Cth) at page 11 states:
- “Offences involved in child sex tourism are of a particularly serious nature and result in devastating consequences for the child victims involved. Evidence of a person’s intent to travel overseas to sexually abuse children often comes to the attention of law enforcement agencies while the offender is still in Australia. Law enforcement should not have to wait until the offender is in the advanced stages of committing a child sex tourism offence to take action, as this places a child under unnecessary risk. A focus on prevention, rather than just addressing the conduct after the fact, will go further towards protecting children from such behaviour. Accordingly, this Schedule will introduce a new offence of preparing for, or planning, a child sex tourism offence.”
- [34] This type of offending also gives rise to particular considerations which are recognised in the authorities. This includes:
- (a) This type of offending inappropriately sexualises children at an age where they are ill-equipped to protect themselves or respond to their own interest, as was discussed in *R v Nahlous* (2013) 273 FLR 232 at [71].
 - (b) There is a paramount public interest in protecting children from sexual abuse. Offenders who use the internet to locate and contact children to procure them to engage in sexual activity can ordinarily expect to receive a term of imprisonment: as considered in *Western Australia v Collier* (2007) 178 A Crim R 310 at [43] and *R v Gajjar* (2008) A Crim R 76 at [63].
 - (c) Impoverished and prostituted children living overseas in environments lacking strong criminal offence and child protection regimes are especially vulnerable to exploitation, as observed in *Merrill v The Queen* [2018] VSCA 62 at [53].

- [35] The authorities considering offences under Division 272 of the Commonwealth Criminal Code also assist in identifying the factors to be considered. This includes the approach to assessing the objective seriousness of offences for the purposes of sentencing.
- [36] Price J, with whom Walton J agreed, in *Director of Public Prosecutions (Cth) v Beattie* (2017) 327 FLR 71 at [127] identified factors that may be relevant to the objective seriousness of offences against s 272.8(2) and s 272.9(2) of the Commonwealth Criminal Code. The New South Wales Court of Criminal Appeal confirmed in *Baden v R* [2020] NSWCCA 23 at [27] that those factors also apply to the consideration of offences against s 272.11 and 272.14.
- [37] The offending for which you are to be sentenced includes offending as follows:
- (a) 32 counts under s 272.8(2) read with s 272.20(1);
 - (b) 3 counts under s 272.8(2) read with s 272.11(1);
 - (c) 2 counts under s 272.8(2) read with s 272.19(1);
 - (d) 6 counts under s 272.8(2);
 - (e) 1 count under s 272.14(1); and
 - (f) 8 counts under s 272.9(2) read with s 272.20(1).
- [38] Accordingly, it is relevant to consider the list of factors that have been identified in the authorities as relevant to the assessment of the objective seriousness of the offending of this nature.
- [39] The list of factors includes:
- (a) The age of the child or children, and the number of children involved in the sexual offence.
 - (b) The gravity of the sexual offence.
 - (c) The extent of any cruelty or physical harm occasioned to the child or children involved in the sexual offence.
 - (d) The vulnerability of the child or children to sexual exploitation, including the country in which the child resides and the child's impoverished circumstances.
 - (e) The role of the offender in the production of the sexual offence, including the selection of the child or children, the nature and duration of the sexual offence, and whether the defendant provided any payment or other material benefit to the other party for the sexual offence.
 - (f) The level of control exercised by the offender, including by communications and directions with persons overseas, before or whilst the sexual offence occurs.
 - (g) The degree of planning, organisation or sophistication employed by the offender in causing the child or children to engage in the sexual offence.

- (h) Whether the sexual offence was viewed live by the offender by technical means such as real time video links, webcams, chat and video rooms, or live streaming.
 - (i) Whether the sexual offence was also viewed live by persons other than the offender, including whether there was transmission by live streaming to those other persons by the offender.
 - (j) Whether the sexual offence was recorded by the offender.
 - (k) Whether the sexual offence was recorded by the offender with the intention of disseminating the recording to other persons.
 - (l) Whether any payment or other material benefit was intended to be received or was received by the offender for causing the child or children to engage in the sexual offence, for live streaming the sexual offence or disseminating any recording for the sexual offence.
 - (m) Whether the offender acted alone or in a collaborative network of like-minded persons.
 - (n) Any other matter under s 16A of the Crimes Act bearing upon the objective seriousness of the offence.
- [40] These factors will be considered in the circumstances of the current offending later in these sentencing remarks.
- [41] The offending for which you are to be sentenced involved children in the Philippines and included you using electronic facilities or platforms. The fact that the children were overseas does not diminish the serious nature of the offending. This has been recognised by the Courts as well as by Parliament in introducing the offences, including:
- (a) The Second Reading Speech by the Minister for Home Affairs recognising a commitment to:

“taking all necessary action to prevent harm to children from occurring both in Australia and overseas. The sexual exploitation of children is devastating to the children involved, their families, and their communities.”
 - (b) McClellan CJ, with whom Price and Latham JJ agreed, observed in *Asplund v R* [2010] NSWCCA 316 at [50]:

“the need to protect children and young persons from predators using electronic facilities has been recognised by the Parliament in providing for these offences and must be enforced by the courts with sentences of appropriate severity.”
 - (c) The New South Wales Court of Criminal Appeal in *DPP (Cth) v Beattie* cited with approval the comments of Moses LJ in *R v Charnley* [2010] EWCA Crim 1996 including as follows:

“... The fact that they were [on] the other side of the world, in countries such as the Philippines, but that modern communications enabled the offender to procure their sexual

abuse is no mitigation. It is indeed an aggravation. No doubt the offender and others like him thought he could far more easily escape detection by committing these offences in that way by payment through a credit card than if he had dared to be present and commit these offences within this country. What a public outcry there would have been if the children had come from the United Kingdom and a sentence had been passed of no more than five years' imprisonment.

... It is plain that such offenders, obsessed with the opportunity so easily on payment to obtain their own sexual gratification at the cost of terrible abuse of these children, need to be deterred. These children, coming as they do from impoverished circumstances, need protection. They need protection against the ever more sophisticated methods by which offenders obtain sexual gratification."

- [42] I accept these observations and these form part of the overall sentencing considerations as part of the single step instinctive synthesis to arrive at the appropriate sentence.
- [43] The sentencing principles relevant to child abuse material offences also need to be considered. At the time of the offending the terminology used was child pornography offending. The Courts have identified a number of propositions or principles that are to be applied to sentencing in respect of offences of this nature.
- [44] The relevant principles or proposition that can be extracted from the authorities, including *Commonwealth Director of Public Prosecutions v CCQ* [2021] QCA 4 and *R v De Leeuw* [2015] NSWCCA 183, include:
 - (a) The objective seriousness of the offending is ordinarily determined by a consideration of the following factors:
 - (i) the nature and content of the material, in particular the age of the children and the gravity of the sexual activity depicted;
 - (ii) the number of items or images possessed;
 - (iii) whether the material is for the purpose of sale or further distribution;
 - (iv) whether the offender will profit from the offence;
 - (v) in respect of possession of or access to child pornography for personal use, the number of children depicted and thereby victimised;
 - (vi) whether actual children were involved in the creation of the material, and the number of children depicted and thereby victimised;
 - (vii) the length of time for which the offending occurred; and
 - (viii) the degree of planning, organisation or sophistication employed by the offender in acquiring, storing, disseminating or transmitting the material.
 - (b) General deterrence is the primary sentencing consideration for offending involving child pornography.

- (c) Less or limited weight is given to an offender's prior good character.
 - (d) Offending involving child pornography occurs on an international level and is becoming increasingly prevalent with the advent of the internet as a means of allowing people to access and obtain child pornography.
 - (e) Offending involving child pornography is difficult to detect given the anonymity provided by the internet.
 - (f) The possession of child pornography material creates a market for the continued corruption and exploitation of children.
 - (g) There is a paramount public interest objective in promoting the protection of children as the possession of child pornography is not a victimless crime – children are sexually abused in order to supply the market.
 - (h) The fact that an offender does not pay to access a child pornography website or was not involved in the distribution or sale of child pornography does not mitigate the offending.
- [45] These factors will be considered in the circumstances of the current offending later in these sentencing remarks.
- [46] Other relevant sentencing considerations include the maximum penalties and the need to direct the commencement date of the sentences.
- [47] The maximum penalties for each of the offences that you are to be sentenced for are set out later in these sentencing remarks. As previously identified, the maximum penalty is 25 years in respect of counts 3, 4 and 36, which are the most serious offences.
- [48] The maximum penalty serves several purposes in the sentencing exercise. It is a yardstick and also a basis for comparison between the offending being considered and the worst case, as discussed in *Markarian v The Queen* (2005) 228 CLR 357. It also reflects the gravity and objective seriousness that Parliament, and the community, regards offending of that type.
- [49] Pursuant to s 19(2) of the Crimes Act, where a sentence of imprisonment is to be imposed for more than one federal offence, the Court must order when each sentence is to commence. Further, no sentence is to commence later than the end of the sentences the commencement of which has already been fixed, or the last to end of those sentences. In other words, there is to be no gap in the sentences imposed.

The sentence structure

- [50] Much thought has been given to the appropriate sentence structure given the 98 counts. Initially the Crown proposed that the offending and the structure be considered by reference to 12 sequences (as characterised in *Schedule A* to the Crown's written submissions). This was revised during the course of the oral submissions on 16 March 2026, and the Crown proposed a revised approach based on 6 sequences contained in the *Redraft of Schedule A*, **MFI S3**.
- [51] The revised sequences maintain the focus of grouping the offending by facilitator, but also groups the offending by reference to:

- (a) preparing for or planning sexual intercourse with a child outside Australia (sequence 1);
 - (b) persistent sexual abuse of a child outside Australia (sequences 2 and 5);
 - (c) preparing or planning where no show takes place (sequence 3);
 - (d) preparing or planning where show takes place (sequence 4); and
 - (e) Child pornography offending and other remaining offending (sequence 6).
- [52] Individual offences within each of the sequences have then been characterised by the objective seriousness of the offending: being high, mid to high, mid or low. The relevant particulars are briefly summarised in the *Redraft of Schedule A, MFI S3*.
- [53] The defence did not challenge the Crown's approach to the 6 sequences, nor the characterisation of the objective seriousness of the offending. As part of the single step instinctive synthesis, I accept the analysis of the objective seriousness of the offending in the *Redraft of Schedule A, MFI S3* and the proposed 6 sequences.
- [54] In respect of the sentence structure, where there is more than one offence the Court is to impose an appropriate sentence for each offence and consider questions of cumulation or concurrence, and totality to arrive at a sentence that is of a severity appropriate in all of the circumstances.
- [55] Given the sheer number of counts to be considered, the current sentencing exercise is more complex than many.
- [56] The Crown contends that the Court should consider a hybrid approach, that is:
- (a) fixing a global sentence for each of the most serious offences for each of the sequences, with lesser concurrent sentences for the other offending in each of the sequences (that is, apply the *Nagy* approach to each sequence);
 - (b) direct a partial accumulation between the sequences by staggering the commencement dates of the sentences for the various sequences; and
 - (c) setting a non-parole period.
- [57] In comparison to imposing wholly concurrent sentences, the Crown contends that this approach gives recognition to:
- (a) the discrete and distinct form of offending;
 - (b) the number of different victims of the same offence; and
 - (c) the variation on the objective seriousness of the defendant's conduct, including as between different examples of the same offence committed on different occasions.
- [58] A wholly concurrent sentence could be imposed, with a global penalty attaching to each of counts 3 and 4, reflecting the overall criminality, with lesser concurrent sentences on the other offences.
- [59] However, in doing that the Court would have to ensure that the sentence for each offence is of a severity appropriate in all of the circumstances, including totality. This

may prove difficult here given the number, extent and nature of the offences and the variety of criminality involved. Consequently, a wholly concurrent approach may distort the criminality for some counts and not reflect the criminality in others.

[60] Of particular relevance are the comments of Bond JA in *R v Schulz; Ex parte Director of Public Prosecutions (Cth)* [2023] QCA 150. In that case a sentence of 9 years was imposed at first instance with a non-parole period of 4.5 years. On appeal it was held that the global sentence attaching to the most serious count “did not pay adequate regard to the criminality involved in the other offending and [did] not adequately reflect the respondent’s overall criminality.” The majority of Bond JA and Dalton JA imposed an effective sentence of 13 years with a non-parole period of 7.5 years using a partially accumulated structure.

[61] Relevantly, Bond JA stated at [65] to [66] as follows:

“... I agree with the submission advanced by the appellant before the sentencing judge that using the *Nagy* approach in relation to the criminality involved in the remaining counts would not allow for a sentence of a severity appropriate in all of the circumstances, because it would result in a manifestly excessive sentence on count 8. In my view the *Nagy* approach cannot be applied, and it is necessary that there be a degree of accumulation of the sentences which are imposed in relation to the remaining counts.

The desired result that sentences are imposed which are of a severity which is appropriate in all the circumstances is to be achieved by fixing the commencement date of each sentence in such a way as to achieve an effective aggregate head sentence which complies with the principle of totality.”

[62] The Crown contends that following this reasoning it is not possible in the current sentencing exercise to adopt a wholly concurrent sentence structure that does not result in a manifestly excessive sentence being imposed on the particular count to which the head sentence would attach.

[63] Reference is also made to the decision of the Court of Appeal in *R v Harrison; Ex parte Director of Public Prosecutions (Cth)* (2021) 294 A Crim R 1. In that matter the Court had to consider a wholly concurrent sentence where there was separate criminality in respect of a number of different offences. Ultimately, it was held that the totality principle was infringed where the balance of the offences involved offending of a different kind to the offence to which the global head sentence attached with additional victims and which warranted significant additional punishment.

[64] Consequently, it was held that in resentencing the Court should adopt the approach in *Pearce v The Queen* (1998) 194 CLR 610: namely, determine the individual sentences, consider questions of concurrent, cumulation and totality, and impose a partially accumulated sentence.

[65] In the current sentencing exercise, the Crown submits that the Court should adopt the proposed hybrid structure to the sentence to enable a sentence of a severity appropriate in all of the circumstances to be imposed.

- [66] On your behalf Counsel accepts that the *Nagy* style approach would distort the criminality and a wholly cumulative sentence would not be appropriate. Further, it is accepted that a partial accumulation in the current circumstances would enable the true criminality to be reflected.
- [67] As part of the single step instinctive synthesis, I accept the submissions that a partial accumulation structure is appropriate in all of the circumstances. Accordingly, the structure of the sentence to be adopted as part of the single step instinctive synthesis is as follows:
- (a) a global sentence for each of the most serious offences for each of the six sequences, with lesser concurrent sentences for the other offences in each of the sequences;
 - (b) a partial accumulation between the sequences by staggering the commencement dates of the sentences for the various sequences; and
 - (c) setting a non-parole period.
- [68] Totality is also to be considered as part of the single step instinctive synthesis.

Overview of the offences

- [69] Dealing with the offending at a high level, before considering the offences in more detail.
- [70] You are to be sentenced in respect of the 98 offences committed over the period January 2018 to October 2019.
- [71] In that period, you used online communication platforms to correspond with Philippines-based facilitators of live child sexual abuse shows and transferred money to purchase live child sexual abuse shows and, at times, child pornography images.
- [72] The live shows and images primarily showed children from the Philippines engaged in sexual intercourse and other sexual activity, with female adults and other children. Often this was with their mothers and siblings.
- [73] You corresponded with 21 facilitators, though two were later identified as being the same person. These were generally the mothers or carers of the children.
- [74] You transferred money to purchase the live shows by using international money remittance services. You viewed the child abuse shows by video call using the Skype application.
- [75] You conducted a romantic relationship with a facilitator on occasions prior to expressing an interest in their children.
- [76] The facilitators were impoverished and you promised financial support and also promised gifts for the children. The messages disclose that you were told of a need for school supplies, groceries, a washing machine and dryer, and medicine. In response you would offer to purchase items in exchange for sexual acts by the children in person or online.
- [77] Your acts can appropriately be characterised as manipulative and predatory.

- [78] You purchased 28 individual live child sex abuse shows for at least AUD\$3,514.62. These transactions are summarised in the table at *Schedule B* to the Crown submissions. Shows were only performed on 13 occasions.
- [79] You received child pornography material images or recording on some occasions.
- [80] On other occasions, you complained that you had not received products that you had paid for and threatened to report the facilitator to the police.
- [81] You paid for and observed the sexual abuse of approximately 25 male and female children aged between 3 years and 15 years. The majority of the children were aged 10 years and above.
- [82] The live child abuse shows were not recorded, with one exception which was recorded but later deleted.
- [83] You used a text-based chat function to give directions to the facilitator about how you would like the child or children to be sexually abused. It appears that you had a particular interest in male and female children performing sexual acts upon each other.
- [84] Counts 3, 4 and 36 involve persistent sexual abuse of a child outside Australia. You caused the sexual abuse of each of the children involved in those counts to be sexually abused on three separate occasions.
- [85] You travelled to the Philippines on two occasions during the period and you were preparing or planning to engage in sexual intercourse with a child on both of those occasions.
- [86] In August 2018 you travelled to the Philippines to have sex with a 12 year old. You had been corresponding directly with the child about taking the child's virginity.
- [87] In October 2019 you travelled to the Philippines for the purpose of having sexual intercourse with a nine year old.
- [88] On each of the trips you did not meet up in person, despite your urgings for it to occur.
- [89] You also caused to be transmitted to yourself material that included children. Counts 39, 40 and 83 involve toddlers being sexually abused.
- [90] You also planned for the sexual abuse of children to include bestiality with dogs. You caused material depicting and discussing sexual activity between children and dogs to be transmitted to yourself, including counts 43, 55, 77, 78, 83, 91, 92 and 109.
- [91] The victims were children from impoverished and disadvantaged circumstances. One was a 15-year-old child with a disability, being unable to walk. I note that you only became aware of that after the offending.
- [92] Whilst some of the victims have been identified, the majority have not. In these circumstances, they are unable to give victim impact statements. But the absence of victim impact statements does not give rise to any inferences.

[93] The Crown submits that there is a presumption that a child has suffered harm as a result of prohibited sexual activity. This is regardless of whether it occurs in person or by way of cybersex.

[94] That would seem to be self-evident. In any event, the New South Wales Court of Criminal Appeal has considered this issue in *R v Gavel* (2014) 239 A Crim R 469 and stated at [110]:

“This Court has observed that child sex offences have profound and deleterious effects upon victims for many years, if not the whole of their lives ... Sexual abuse of children will inevitably give rise to psychological damage ... The absolute prohibition on sexual activity with a child is intended to protect children from the physical and psychological harm taken to be caused by premature sexual activity ...”. (case references omitted).

[95] The child sex shows are the same. As recognised by the Victorian Court of Appeal in *Rivo v The Queen* [2012] VSCA 117 at [27]:

“The fact that the sex shows were likely to result ... in lasting psychological difficulties for the children involved and that the applicant showed no regard for the children but actively encouraged their abuse, went to aspects of the offending which bore directly on the needs to denounce the applicant’s conduct and discourage like conduct by others by imposing an appropriate penalty. The lack of insight on the applicant’s part and the impact of his offending bore on the need for specific deterrence.”

[96] In order to properly consider the six sequences, it is important to understand the general nature of the offences in respect of each of the 98 counts. The 98 offences are summarised at [1] of **Exhibit 1** Agreed Statement of Facts as follows:

Number of Charges	Offence description	Provision (Cth Criminal Code unless specified)	Count Numbers	Maximum penalty of imprisonment at time of offence
2	Prepare for or planning sexual intercourse with child outside Australia	272.20(1) read with 272.8(1)	1, 12	10 years
32	Prepare for or planning for child to engage in sexual intercourse outside Australia in presence of defendant	272.20(1) read with 272.8(2)	17, 19, 22, 28, 29, 32, 33, 37, 47, 48, 49, 51, 52, 56-58, 64, 65, 67, 68, 70, 73, 74,	10 years

			76, 87, 92, 93, 94, 98, 99, 104, 105	
3	Persistent sexual abuse of a child outside Australia – committing offences against 272.8(2) (sexual intercourse) on three or more occasions in relation to the same child	272.11(1) read with 272.8(2)	3, 4, 36	25 years
12	Using a carriage service to solicit child pornography material	474.19(1)(a) (iv)(aa)&(b)	9, 21, 40, 46, 61, 71, 82, 86, 90, 96, 101, 108	15 years
3	Using a carriage service to access child pornography material	474.19(1)(a)(i) (aa) & (b)	10, 41, 103	15 years
24	Using a carriage service to cause child pornography material to be transmitted to self	474.19(1)(a) (ii) (a) & (b)	2, 5, 6, 7, 15, 20, 30, 31, 35, 38, 39, 42, 43, 55, 60, 77, 80, 83 – 85, 89, 95, 97, 109	15 years
2	Using a carriage service to transmit child pornography material	474.19(1)(a) (iii) (aa) & (b)	102, 111	15 years
1	Procuring child to engage in sexual activity outside Australia	272.14(1)	13	15 years
2	Encouraging child to engage in sexual intercourse outside Australia in the presence of the defendant	272.19(1) read with 272.8(2)	23, 63	20 years
6	Causing child to engage in sexual intercourse in the presence of the	272.8(2)	24, 26, 27, 45, 66, 69	20 years

	defendant, the child being under 16 and the sexual intercourse having been engaged in outside Australia			
8	Prepare for or planning for child to engage in sexual activity outside Australia in presence of defendant	272.20(1) read with 272.9(2)	34, 50, 53, 54, 62, 78, 91, 107	10 years
1	Grooming a child to engage in sexual activity outside Australia	272.15(1)	44	12 years
1	Import tier 2 goods	233BAB(5)(a), (b) & (c)(ii) <i>Customs Act</i>	113	10 years or 2,500 penalty units, or both
1	Obstruct public official	149.1(1)	112	2 years

- [97] It is unfortunately necessary to consider in more detail the six sequences, the offending in each sequence and the objective seriousness of the offending in respect of each sequence.

Detailed consideration of the facts relevant to the six sequences of offending

- [98] Whilst the *Redraft of Schedule A* Proposed Sequences of Offences for Partially Accumulated Sentence Structure (**MFI S3**) deals with the sequences in chronological order, it is convenient to deal with the details of the offending in the sequences in the order of seriousness. This is reflected in the order adopted in the draft orders of the Crown and the Defence, being **MFI S8** and **MFI S7** respectively.
- [99] Accordingly, I will adopt the order of Sequence 2 (being the most serious of the offending), Sequence 5, Sequence 1, Sequence 4, Sequence 3 and then Sequence 6.
- [100] In providing the details of the offending in each of the sequences I am seeking to identify sufficient details to make my reasoning transparent, and also to enable the sentencing remarks to have utility as a comparative authority going forward. This needs to be balanced against including details that would be inappropriate to publish.
- [101] In this regard I am informed by the comments of the Court in *Dixon v The King* [2026] WASCA 48 where their Honours observed at [10]:

“As Basten JA observed in *Director of Public Prosecutions (Cth) v Beattie*, in describing the offending in a case like this, there is a fine line to be drawn between providing lengthy graphic depictions of the offending and a bland statement of the offences that is unlikely to convey the true level of moral culpability of the offender. While the summary which follows seeks to convey, in general terms, the gravity of Mr Dixon’s offending, and so must include some descriptive material, it necessarily omits much of the sordid detail that would be inappropriate to publish widely. It suffices to observe that what

follows cannot convey the full depravity of much of Mr Dixon's offending." (footnote omitted)

- [102] I endorse these comments and I adopt that approach in the following summary of the facts and objective seriousness of the offending.
- [103] For the purposes of undertaking the sentencing exercise, I have had regard to the full facts contained in *Exhibit 1*, the Agreed Statement of Facts, including the particular terminology used in the messages, requests and directions which do provide a truer picture of the offending conduct.

Sequence 2

- [104] Sequence 2 is offending in relation to Facilitator B and includes Counts 3, 4, 5, 6, 7, 9, 10, 12, 13 and 15. Count 4 is the most serious being characterised as Mid to High objective seriousness due to the age of the child. Count 12 is characterised as High objective seriousness due to being a serious example of the planning offence. Count 13 is also characterised as High objective seriousness being procuring a child to engage in sexual activity outside of Australia. Counts 3, 5, 6 and 15 are characterised as Mid objective seriousness and Counts 7, 9 and 10 as Low.
- [105] The most serious offending in Sequence 2 is Count 4, being persistent sexual abuse of a child outside Australia. Count 4 is that on three occasions between 10 March 2018 and 17 April 2019, you purchased live sex abuse shows involving B2, a seven-year-old boy. The shows involved oral sex between children and digital penetration. B2 was the son of Facilitator B.
- [106] Count 3 is the next most serious offending in Sequence 2, also being persistent sexual abuse of a child outside Australia. Count 3 is that on three occasions between 10 March 2018 and 17 April 2019, you purchased live sex abuse shows involving B1, a 12-year-old girl. The shows involved oral sex between children and digital penetration. B1 was the niece of Facilitator B.
- [107] Counts 5, 6 and 7 all involve you causing child pornography material to be transmitted to yourself.
- [108] Count 5 involved B3 participating in one of the live sex shows. You instructed B3 to lick and finger Facilitator B's genitals and to perform oral sex on B2. B3 was the 16-year-old sister of Facilitator B. B2 was the seven-year-old son of Facilitator B. Your conduct in instructing the facilitator and observing the sexual abuse is the causing child pornography material to be transmitted to self.
- [109] Count 6 involved you purchasing and receiving a video of two adult females and B2. B2 was a seven-year-old, pre-pubescent child, being the son of Facilitator B. One of the females had her breasts exposed and fondled B2's penis.
- [110] Count 7 involved you between 10 May and 9 July 2018 requesting and receiving eight images of B1, the 12-year-old niece of Facilitator B. The images included B1's vagina, bottom, breasts and posing with a sex toy.
- [111] Count 9 is soliciting child pornography material. Between 30 May and 11 July 2018 you requested naked images and video of B3 (the 16 year old sister of Facilitator B).

Your request included video of B3 using a sex toy in her vagina and a photo of her vagina open. You did not receive any child pornography material.

- [112] Count 10 is accessing child pornography material. This involved on 28 August 2018, in exchange for money to pay bills, you received and accessed five child pornography material videos of a boy, B4. B4 was a 15-year-old son of a friend of Facilitator B. The videos showed B4's penis exposed and oral sex being performed by a partially naked adult female.
- [113] Count 12 is a serious example of preparing for or planning sexual intercourse with a child outside Australia. You prepared for and planned to have sexual intercourse with B1, the 12-year-old niece of Facilitator B, during a trip to the Philippines in August 2018. You communicated about the sex acts you would perform on B1, including discussing sourcing a dog. You also said that you wanted to ejaculate inside B1 and on her face. The meeting did not eventuate. You complained that you had wasted your money.
- [114] Count 13 is serious offending of procuring a child to engage in sexual activity outside Australia. This count involved seven occasions between 23 March and 23 June 2018 where you communicated directly with B1, a 12-year-old girl. You outlined the type of sexual activity you intended to engage her in during your visit. This included you asking her if she wanted to perform oral sex on you, that you would love to ejaculate in her mouth and that B1 would give her virginity to you.
- [115] Count 15 involves you causing child pornography material to be transmitted to yourself. On 8 July 2018 you communicated on Skype with B3, the 16-year-old sister of Facilitator B. You outlined the type of sexual acts you wanted to perform on her and also discussed various matters including whether she liked being raped by five guys, whether she liked performing oral sex on B2 (the seven-year-old son of Facilitator B, who would be her nephew). You also requested she send photos, including of her open vagina. You made payment for and received images of B3, including of her vagina spread open.

Sequence 5

- [116] Sequence 5 is offending in relation to Facilitator F and includes Counts 36, 37, 38, 39, 40, 41, 42, 43 and 44. Count 36 is the most serious offending being persistent sexual abuse of a child outside Australia, with a Mid characterisation of objective seriousness. Count 39 is categorised as Mid to High objective seriousness due to the age of the child. Similarly, Count 40 is characterised as Mid to High objective seriousness due to the age of the child. Count 43 is characterised as High objective seriousness as the child pornography material transmitted included bestiality. Counts 41, 42 and 44 are characterised as Mid objective seriousness and Counts 37 and 38 as Low.
- [117] The most serious offending in Sequence 5 is Count 36 which is persistent sexual abuse of a child outside Australia. This involved you purchasing four live child sex shows, three of which took place on 14, 16 and 25 August 2018. The shows involved an adult female (Facilitator F) and a child described as her 14-year-old nephew. During the shows you used the text function to direct the sexual abuse that you wanted to see. The shows involved the adult female performing oral sex on the child to ejaculation.

At one stage you said you wanted to see the child have intercourse with the adult female, but you were told the child wanted money for that.

- [118] Count 37 is you preparing for or planning for a child to engage in sexual intercourse outside Australia in your presence. This involved you paying approximately 7000 pesos for a show involving oral sex and the 14-year-old boy ejaculating over the faces of his two aunties. The show did not proceed, and you were irate.
- [119] Count 38 is you causing child pornography material to be transmitted to yourself. On four occasions between 14 August and 24 September 2018 you received 11 child pornography material images. One was unsolicited. The others you requested and involved Facilitator F's 15-year-old cousin, 13-year-old female cousin, 14-year-old nephew and a 3 year old male. The images included an adult female masturbating the penis of a pubescent child, an adult female performing oral sex on a male child and various images of a naked pubescent male child.
- [120] Count 39 again involves you causing child pornography material to be transmitted to yourself. On 16 August 2018 before the second live show, you discussed with Facilitator F having a "little one" participate in a show. Facilitator F indicated she could have a child available. You requested images of the child's penis. You were told that the child was three years old. You received three photographs of a male toddler's penis, including an image of an adult hand masturbating the toddler.
- [121] On 23 September 2018 you told Facilitator F that it was a shame that the three-year-old was not present. You indicated if Facilitator F provided photos of the child's penis you would give her money. You and Facilitator F had a discussion about the toddler's penis, including asking why the three-year old's penis was not hard.
- [122] Count 40 involves you soliciting child pornography material, which is Mid/High objective seriousness due to the age of the child. You requested from Facilitator F images or video of the three-year-old child. You requested that F get the toddler's penis hard and for her to take a photo and you asked for a video. You also asked for a photo of F with the toddler's penis in her mouth. You did not receive any images or video.
- [123] Count 41 is you accessing child pornography material. On 13 July 2018 Facilitator F sent you three images of her 15-year-old female cousin. This included an image of her hand spreading open her vagina. You responded "yummy".
- [124] Counts 42 and 43 involve you causing child pornography material to be transmitted to yourself. Also, on 13 July 2018 you requested pictures of Facilitator F's 13-year-old cousin. She told you that she would send some the next day. F also said that she could send some of her 15-year-old cousin playing with a dog. You responded, "oh yes please."
- [125] The next day on 14 July 2018 F transferred to you four images. Count 42 relates to images of Facilitator F's 13-year-old female cousin. Count 43 relates to Facilitator F's 15-year-old female cousin. The images show the girls lying down with their legs spread open, including one with a vagina spread open.
- [126] Part of Count 43 is an image depicting Facilitator F's 15-year-old cousin performing a sex act on a dog, resulting in the characterisation of High objective seriousness.

- [127] Count 44 is grooming of a child to engage in sexual activity outside Australia. On 16 July 2018 you commenced a live video chat with a child. The child is believed to be Facilitator F's 15-year-old cousin. You told her that she looked sexy and commented that her aunt had said that she liked to have sex. The child responded in a sexualised way.

Sequence 1

- [128] Sequence 1 is offending in relation to Facilitator A and includes Counts 1 and 2. Count 1 is the most serious offending, with an objective seriousness characterisation of High. This is a serious example of preparing for or planning sexual intercourse with a child outside Australia. Count 2 is characterised with Mid objective seriousness.
- [129] Count 1 involves between 12 July and 16 October 2019 you prepared for or planned to have sexual intercourse with A1, a 9 year old female child, in the Philippines. A1 was the daughter of Facilitator A. You travelled to the Philippines in October 2019 for that purpose. Despite your urgings, the meeting did not eventuate. The language used in the conversations is graphic, which is taken into account but not repeated here.
- [130] Count 2 involves you causing child pornography material to be transmitted to yourself. On 12 and 14 July 2019 you requested images of A1's vagina. Two images were sent, with one showing an adult hand spreading the vagina open.

Sequence 4

- [131] Sequence 4 is offending in relation to Facilitator E, Facilitator G, Facilitator I (being the same person as Facilitator E but using a different name) and Facilitator J involving preparing for and planning where live sex shows took place (although I note this grouping of offending does include some offending where shows did not occur). Sequence 4 includes:
- (a) Counts 22 to 35 (Facilitator E);
 - (b) Counts 45 to 55 (Facilitator G);
 - (c) Counts 62 to 68 (Facilitator I); and
 - (d) Counts 69 to 71 (Facilitator J).
- [132] Count 45 is characterised as Mid/High objective seriousness due to the young age of the child. Count 53 is characterised as High objective seriousness due to the age of the child and bestiality being involved.
- [133] Counts 22, 23, 24, 26, 27, 30, 31, 32, 33, 34, 52, 62, 63, 64, 65, 66, 67, 68, 69 and 70 are characterised as Mid objective seriousness. In addition, the following counts are also Mid objective seriousness but with a particular feature warranting mention: Count 48 (age of child), Count 51 (young age of child and nature of activity). I also note that the live show in respect of Count 63 was recorded but later deleted.
- [134] Counts 28, 29, 35, 46, 47, 49, 50, 54, 55 and 71 are characterised as Low objective seriousness.

Facilitator E

- [135] Count 22 involves preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. On 8 May 2018 you purchased a live show involving Facilitator E and a child she described as her 13-year-old son, but he was actually her brother. You transferred 5000 pesos in payment.
- [136] Count 23 involves you requesting during a video call on 9 May 2018 that Facilitator E perform oral sex on her 13-year-old son.
- [137] Counts 24 to 27 involve you causing a child to engage in sexual intercourse in your presence, with the child being under 16.
- [138] In respect of Count 24, on 10 May 2018 Facilitator E offered to do a show. You agreed and paid 5000 pesos to watch E perform oral sex on her 13-year-old son. The show took place and you gave instructions and commentary during the show. A further show occurred on 17 May 2018, which involved E, her 14-year-old daughter and a 10 year old neighbour. E's 13-year-old son joined the show part way through. You gave comments and commentary during and after the show. You complained that you could not see the son clearly during the show.
- [139] In respect of Count 26, this involved the live sex show on 17 May 2018 with E's 14-year-old daughter. It was 51 minutes in length and involved oral sex.
- [140] In respect of Count 27, this also involved the live sex show on 17 May 2018 with E's 10-year-old neighbour.
- [141] Counts 28 and 29 involve further preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. On 7 June 2018 you agreed to pay for a show involving E having sex with her 13-year-old son (Count 28) and her 14-year-old daughter performing oral sex on her brother, with him ejaculating on her face and inside her (Count 29). You transferred 8000 pesos. However, the show did not go ahead and you complained that you had been scammed.
- [142] Counts 30 and 31 involve you causing child pornography material to be transmitted to yourself. In respect of Count 30, on 14 May 2018, you requested images of E's 14-year-old daughter. You received 12 images in total on two dates. The images were of two pre-pubescent female children, including with their vaginas spread open. You commented that it was "so yummy".
- [143] In respect of Count 31 you requested and received seven images of E's 13-year-old son, including masturbating. The images also included semen on the child's stomach and penis. You again commented, including saying "yummy".
- [144] Counts 32, 33 and 34 involve you preparing or planning for a child to engage in sexual intercourse (Counts 32 and 33) or sexual activity (Count 34) outside Australia in your presence. On 23 June 2018 you planned or prepared for three children to engage in sexual activity outside of Australia in your presence. The three children were E's 14-year-old daughter (Count 32), E's 13-year-old son (Count 33) and E's 11 year old female neighbour (Count 34).

- [145] Following your negotiations, the live sex shows were to include sexual intercourse, including anal intercourse between siblings, and the male child ejaculating on the neighbour child's face. You paid 14,000 pesos. The show did not proceed, and you complained that you had been scammed. You told E that your government had been in contact with the Philippines police and that they wanted to talk with E. You said that you would be arriving in the Philippines the next day.
- [146] Count 35 involves you communicating with Facilitator E on five occasions, discussing the sexual experience of the children for your own sexual gratification. The offending of causing child pornography material to be transmitted to yourself is the content of the text-based communications. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material is in the form of the text of the graphic conversation.

Facilitator G

- [147] Count 45 is a serious example of causing a child to engage in sexual intercourse in your presence, with the child being under 16. On 9 March 2018 you discussed purchasing a live child sex show involving Facilitator G and her nine-year-old nephew. That child was unavailable, so you purchased a sex show with G and her 5 and 7-year-old daughters. The show took place. You provided instructions as to what was to occur during the show, including oral sex and digital penetration.
- [148] Count 46 involves you requesting images of Facilitator G's nine-year-old nephew, including G "playing" with the child. You did not receive the images.
- [149] During the same live show, you asked who else was able to participate. You asked about G's nine-year-old nephew and paid an additional sum for the child to join, which is Count 47. The video ended suddenly and the child did not join the call.
- [150] Counts 48, 49 and 50 involve you preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. You communicated with Facilitator G in relation to G's seven-year-old daughter (Count 48), a 14-year-old boy (Count 49) and a 15-year-old male cousin (Count 50).
- [151] The language used in the conversations is graphic, which is taken into account but not repeated here. The general nature of the conversation involved how the 14-year-old boy would have sexual intercourse with G, that you would pay and what the daughters would do to the cousin. You also expressed an interest in the two boys at the same time. No show took place.
- [152] Counts 51 and 52 involve you further preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. You agreed to pay for a live sex show involving an unidentified 15-year-old boy (Count 52) and G's five or seven-year-old daughter (Count 51), including masturbation, oral sex and sexual intercourse between the children. You did not send the money, and the show did not proceed.
- [153] Count 53 is a serious offence of preparing for or planning for a child to engage in sexual activity outside Australia in your presence due to the age of the child and bestiality being involved. You negotiated and paid for a show involving G's seven-

year-old daughter and a dog. The show did not take place. You complained that you had been scammed.

[154] Count 54 is a similar offence involving you negotiating and paying for a show involving G's friend's daughter and a 15-year-old boy. The show did not go ahead.

[155] In respect of Count 55 this is causing child pornography material to be transmitted to yourself. Between 8 March and 7 June 2018, you engaged in discussions with Facilitator G about the sexual experience of the children available and what sexual activity they would perform in the show. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material is in the form of the text of the graphic conversation. The discussion involved children aged 7 to 17 engaging in sex acts with adults. It also included references to acts of bestiality with a dog and a child.

Facilitator I (E under a different name)

[156] Counts 62 and 63 are related although the first is you preparing for or planning for a child to engage in sexual activity outside of Australia in your presence and the second is encouraging a child to engage in sexual intercourse outside of Australia in your presence. On 26 October 2018 you transferred 2000 pesos for a show. The show was to involve Facilitator I twice masturbating a 14-year-old boy (Count 62). The show did take place and was recorded, but was later deleted. You complained that you were unable to see the child ejaculate and it was a waste of money.

[157] During the live show you encouraged Facilitator I to perform oral sex to help the child ejaculate (Count 63).

[158] Counts 64 and 65 are further offences of preparing or planning for child to engage in sexual intercourse outside Australia in your presence. On 4 December 2018 you negotiated and paid for a live child sex abuse show involving Facilitator I's 11-year-old nephew (Count 64) and a 14-year-old girl (Count 65).

[159] Count 66 is you causing a child to engage in sexual intercourse outside of Australia in your presence, with the child being under 16. You communicated with Facilitator I and arranged a live video call with Facilitator I performing oral sex on a 14 year old boy. During the show you requested a video of him ejaculating in I's mouth.

[160] Counts 67 and 68 both involve you preparing or planning for a child to engage in sexual intercourse outside of Australia in your presence. On 6 June 2019 you negotiated and paid for a show involving a 14-year-old boy (Count 67) and a 14-year-old girl (Count 68). The show was to involve the male child ejaculating in the female child's mouth. The show did not take place.

Facilitator J

[161] Counts 69 and 70 involve related but different offending, being causing a child under 16 to engage in sexual intercourse outside of Australia in your presence and preparing for or planning for a child to engage in sexual intercourse outside Australia in your presence. On 14 February 2019 you communicated with Facilitator J about a live sex show involving children. During negotiations you asked if the 13-year-old boy would

have sex with the eight-year-old girl and you wanted the girl to give the boy an erection (Count 70). The eight-year-old girl was the daughter of Facilitator J.

- [162] A live video call took place during which you directed the adult female to perform oral sex on the boy (Count 69). You also said you wanted to see the daughter.
- [163] Count 71 is soliciting child pornography material. You offered to pay for a picture of Facilitator J's eight-year-old daughter's vagina. You did not pay as J refused to send the picture.

Sequence 3

- [164] Sequence 3 is offending in relation to Facilitator C, Facilitator D, Facilitator H, Facilitator K, Facilitator L, Facilitator N, Facilitator O, Facilitator P, Facilitator Q, Facilitator S and Facilitator T involving preparing for and planning for live sex shows where no show took place (although this grouping of offending does include some offending where shows did occur). Sequence 3 includes:
 - (a) Count 17 (Facilitator C);
 - (b) Counts 19 to 21 (Facilitator D);
 - (c) Counts 56 to 58, 60 and 61 (Facilitator H);
 - (d) Counts 73, 74, 76 and 77 (Facilitator K);
 - (e) Counts 78 and 80 (Facilitator L);
 - (f) Counts 84 to 87, 89 and 90 (Facilitator N);
 - (g) Counts 91 and 92 (Facilitator O);
 - (h) Counts 93 to 97 (Facilitator P);
 - (i) Counts 98, 99 and 101 (Facilitator Q);
 - (j) Counts 104 and 105 (Facilitator S);
 - (k) Counts 107 and 108 (Facilitator T).
- [165] Count 78 is characterised as High objective seriousness due to the nature of the activity and the two payments by you. Count 91 is also characterised as High objective seriousness due to the age of the child and bestiality being involved. Count 92 is also characterised as High objective seriousness. Count 97 is characterised as High objective seriousness due to coercion being involved.
- [166] Count 21 is characterised as Mid/High objective seriousness due to it involving a disabled child. Counts 56 and 57 are characterised as Mid/High objective seriousness.
- [167] Counts 73, 74, 76, 80, 93, 94, 98 and 108 are characterised as Mid objective seriousness. Counts 85 and 89 are characterised as Low/Mid objective seriousness.
- [168] Counts 17, 19, 20, 58, 60, 61, 77, 84, 86, 87, 90, 95, 96, 99, 101, 104, 105 and 107 are characterised as Low objective seriousness.

Facilitator C

- [169] Count 17 involves you preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. On 25 June 2018 Facilitator C asked if you would buy a show so she could buy food. You paid 5000 pesos for a show with her 10-year-old son. The show did not occur.

Facilitator D

- [170] Count 19 involves you preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. On 14 August 2018 Facilitator D offered you a show with her 15-year-old son in graphic terms. You declined to pay extra for a dog but asked questions about whether the son would have sex with others and where he would ejaculate. You made payment but the show did not occur.
- [171] Count 20 is you causing child pornography to be transmitted to yourself. You requested and received three images of Facilitator D's 15-year-old son's penis. You were then told that the son had a disability and then you asked further questions about how he had sex.
- [172] Count 21 is soliciting child pornography material. The following day you followed up on the show you had purchased. Facilitator D indicated she would send a video of her having oral sex and intercourse with her disabled son. You transferred more money but did not receive the video.

Facilitator H

- [173] Counts 56, 57 and 58 are all offences of preparing for or planning for child to engage in sexual intercourse outside Australia in your presence. You negotiated with a person purporting to be a 13-year-old girl. You paid for a live sex show involving the 13-year-old girl (Count 56) and her 10 year old sister (Count 57). The live video link was established. You made specific requests. It does not appear that actual sexual acts took place.
- [174] In respect of Count 58, you paid for a live sex show involving Facilitator H having sex with her 15-year-old son. The show did not ultimately take place.
- [175] Counts 60 and 61 relate to you causing child pornography material to be transmitted to self and soliciting child pornography material. In respect of Count 60, between 25 March and 28 May 2018, you engaged in conversations in relation to the sexual experience of children. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material was contained in the text.
- [176] In respect of Count 61, you requested a picture of Facilitator H's 10-year-old daughter with a penis in her vagina. No images were sent.

Facilitator K

- [177] Counts 73 and 74 both involve you preparing for or planning for a child to engage in sexual intercourse outside Australia in your presence. You had a number of conversations with Facilitator K about a live sex show involving her 13-year-old daughter (Count 73) and a 12-year-old boy (Count 74). You also discussed the

possibility of meeting those children on a visit to the Philippines. That visit did not eventuate.

- [178] Count 76 is similar offending and involved on 13 April 2018 you negotiating and paying for a live sex show involving Facilitator K's 13 year old daughter (Count 73 continuing) and a 15-year-old boy (Count 76). Despite you following up on at least three occasions, it appears that the show did not take place.
- [179] Count 77 involves you causing child pornography material be transmitted to yourself. You had a conversation with Facilitator K about her children and others known to her engaging in sexual acts, including with adults, incest and dogs. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material was contained in the text.

Facilitator L

- [180] Count 78 is a serious example of you preparing for or planning for a child to engage in sexual activity outside Australia in your presence and is characterised as High objective seriousness. You negotiated and purchased a live sex show involving Facilitator L (24 years of age), her 17-year-old brother and 11-year-old sister. You made specific enquiries as to what the 11-year-old would do. You were told that it would involve the male ejaculating into her mouth and that the 11-year-old would swallow. Further the 17-year-old male would engage in anal sex. You initially made payment and sent additional money for the 11-year-old to engage in an act of bestiality with a dog during the show. The show did not occur.
- [181] Count 80 involves you causing child pornography material to be transmitted to yourself. You asked for and received a picture of the 11-year-old female child with her hand exposing her vagina. When you did not receive the show in Count 79 you claimed to have reported it to the police.

Facilitator N

- [182] Counts 84 and 85 involve you causing child pornography material to be transmitted to yourself. In respect of Count 84, over 2 days in August 2018 you caused child pornography material to be transmitted to yourself in the form of text descriptions about sexual experiences of the children available to Facilitator N. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material was contained in the text.
- [183] In respect of Count 85, on 11 October 2018 you graphically conversed with Facilitator N about N's 16-year-old son and 11 year old daughter having sex. You requested and received two images of the topless female child.
- [184] Further, in respect of Count 86 you requested a photo of the 11-year old's vagina but it was not received.
- [185] Count 87 is a further offence of preparing for or planning for a child to engage in sexual activity outside of Australia in your presence. You negotiated about a show involving Facilitator N's 21-year-old son, her 16-year-old son and her 11-year-old daughter. You did not purchase a show.

- [186] In respect of Count 89, you requested pictures of the penis of Facilitator N's 21-year-old son and also of her 16-year-old son. N refused to send the pictures without payment. You made payment and received four child pornography material images, being the erect penis of a child aged 14 – 15 years of age.
- [187] Further, Count 90 is you soliciting child pornography material by requesting that Facilitator N send a photo of N and the male child in Count 89, with the child's penis in her mouth. The photo was not received.

Facilitator O

- [188] Counts 91 and 92 are offences of preparing for or planning for a child to engage in sexual activity or sexual intercourse outside Australia in your presence. Both are characterised as High objective seriousness.
- [189] The offending involved you on 2 November 2018 negotiating with Facilitator O and paying for a show involving Facilitator O's five-year-old daughter (Count 91) and a 13-year-old boy (Count 92) and two dogs. You made specific enquiries regarding the dogs. When Facilitator O denied receiving the funds, you suggested that it would not bother the five-year-old and to do the show without the boy. The show did not proceed, and you requested a refund.

Facilitator P

- [190] Counts 93 and 94 involve preparing for or planning for a child to engage in sexual intercourse outside Australia in your presence. You negotiated and purchased a "family team show" involving Facilitator P, her mother, two adult brothers, her 18-year-old daughter, her 15-year-old son (Count 93) and her 13-year-old daughter (Count 94). The show did not occur.
- [191] Counts 95 and 97 involve you causing child pornography to be transmitted to yourself. In respect of Count 95, between 8 February and 20 September 2019 you corresponded with Facilitator P and asked questions about the sexual experience of the children available to P. The language used in the conversations is graphic, which is taken into account but not repeated here. The child pornography material was contained in the text.
- [192] In respect of Count 97, you paid for a show involving Facilitator P performing oral sex on her 16-year-old adopted son for 4500 pesos. You threatened if she did not perform the show, you would be in the Philippines shortly and it would not end nicely for her. You said you would find her and you were capable of finding people that did not want to be found. The show did not take place. Due to the coercive element, this offending has a characterisation of High objective seriousness.
- [193] In respect of Count 96, this involved you soliciting child pornography material. On 29 April 2019 Facilitator P told you she needed money for medicine. You suggested her children do shows and send a photo of oral sex with ejaculate on her face. You received three images which Facilitator P claimed were of herself performing oral sex on her 17-year-old son.

Facilitator Q

[194] Counts 98 and 99 are further offences of you preparing for and planning to engage a child in sexual intercourse outside Australia in your presence. You negotiated with Facilitator Q about a live child sex show involving an 11-year-old girl (Count 98) and a 15-year-old boy (Count 99). Two live video calls took place. In the first video, you gave explicit directions as to what you wanted to see and were shown that. In the second video you asked to see the male child but this was refused without payment. You paid an initial amount and offered more after the show. The show did not occur.

[195] In respect of Count 101, you solicited child pornography material by requesting various images. This included the penis of a 13-year-old male, you wanted to see the boy and girl together and wanted an open vagina shot. You did not send further money. You did not receive any images.

Facilitator S

[196] Counts 104 and 105 both involve you preparing for or planning for a child to engage in sexual intercourse outside of Australia in your presence. You communicated with Facilitator S about a live child sex abuse show involving S and two children: a 10-year-old male child (Count 104) and a 12-year-old female child (Count 105). You transferred payment but no show occurred.

Facilitator T

[197] Count 107 is the offence of preparing for or planning for a child to engage in sexual activity outside Australia in your presence. Count 108 is you soliciting child pornography material. On 19 March 2019 you communicated with Facilitator T about a live child abuse show involving T, her 14-year-old cousin (Count 107) and 16-year-old brother. T offered to perform oral sex on the sleeping 16-year-old brother as proof that she was legitimate. You said “show me then” which is Count 108. In the live video call you directed T to perform oral sex on her 16-year-old brother, however it appears that the call did not take place.

Sequence 6

[198] Sequence 6 includes child pornography material offending involving Facilitator M, Facilitator R and Facilitator U, together with the remaining offending. Sequence 6 includes:

- (a) Counts 82 and 83 (Facilitator M);
- (b) Counts 102 and 103 (Facilitator R);
- (c) Counts 109 and 111 (Facilitator U);
- (d) Count 112; and
- (e) Count 113.

[199] Count 83 is characterised as Mid/High objective seriousness due to the child pornography material image of a female toddler with an adult male. Counts 82, 102, 103 and 109 are characterised as Low objective seriousness. Count 111 is not characterised in *MFI S3* but I have proceeded on the basis it is a Low objective

seriousness as recorded in the original version of Schedule A attached to the Crown's written submissions.

- [200] It is convenient to deal with this offending before considering Counts 112 and 113.

Facilitator M

- [201] Count 82 involves you soliciting child pornography material. On 25 August 2018 you requested from Facilitator M pictures of her son's penis and her daughter's vagina. You also requested any picture with ejaculate on M's face.
- [202] Count 83 involves you causing child pornography material to be transmitted to yourself. On that same day you had a conversation with Facilitator M about her sexual experience with children, including sex with an 8-year-old boy and her daughter ejaculating a dog into her mouth. The language used in the conversations is graphic, which is taken into account but not repeated here.
- [203] Further, on 27 August 2018 you requested pictures and received four child pornography material images. Three of the images depicted a pre-pubescent female performing oral sex. One image depicted an adult male penis pushed up against the vagina of a female toddler, with semen on the child's genitals. This image is Mid/High objective seriousness due to the content.

Facilitator R

- [204] Count 102 is transmitting child pornography material and Count 103 is accessing child pornography material. In respect of Count 102 you communicated with Facilitator R about whether she would enjoy watching a young child of 8 years performing oral sex on you. You sent R an image of two pre-pubescent Asian children, with one topless with semen on her face.
- [205] In respect of Count 103, on 17 July 2019 Facilitator R sent you and you accessed a video depicting a masked obese male vaginally raping a pre-pubescent Asian girl.

Facilitator U

- [206] Counts 109 and 111 involve interactions with Facilitator U. In respect of Count 109, Facilitator U contacted you and you corresponded about her sexual experience of various children. The language used in the conversations is graphic, which is taken into account but not repeated here.
- [207] In respect of Count 111 you asked Facilitator U for a video of a dog or a young boy. You were sent a video. In return, you sent to Facilitator U the video that had been provided to you by Facilitator R, thereby transmitting child pornography material.

Obstructing public official and importing tier 2 goods

- [208] Count 112 is the offence of obstructing a public official. This involves you attempting to delete material from your phone after you had been asked by an Australian Border Force Officer to unlock your phone and feigning difficulties.
- [209] Count 113 is the offence of importing Tier 2 goods under the *Customs Act 1901* (Cth). You imported from Manila in the Philippines to Brisbane 230 child abuse material

files comprised of 211 images and 19 videos. The material is low quality but does include Child Exploitation Tracking System Category 4 and 5 material.

- [210] The Crown accepts that there is significant overlap between this offending and the child pornography material images considered in respect of other counts.
- [211] **Exhibit 1** the Agreed Statement of Facts at [22] categorises the images and video in accordance with the relevant scale being the Australian National Victim Image Library (ANVIL) scale, the Child Exploitation Tracking System (CETS) scale as follows:

CETS LEVEL	IMAGES	VIDEOS	TOTAL
CET 1	99	2	101
CET 2	38	-	38
CET 3	29	1	30
CET 4	41	15	56
CET 5	4	1	5
CET 6	-	-	
TOTAL	211	19	230

- [212] There is no suggestion or basis to consider that you possessed a permit to import objectionable goods into Australia.

Antecedents, mitigating factors and other sentencing considerations

- [213] The Court is to consider your antecedents and the various matters raised as relevant and/or mitigating factors.
- [214] You are currently 63 years old, and were 55 to 56 at the time of the offending.
- [215] You do have an Australian Federal Police criminal history, as well as a criminal history in each of Queensland, South Australia and Victoria. Your criminal histories include:
- (a) Impersonating a Commonwealth Public Official. You were convicted and fined \$400 in December 2004.
 - (b) Using intimidation/violence to unlawfully influence a person in 2009 (New South Wales).
 - (c) Aggravated assault on a female 1991 (Queensland).
 - (d) Dated traffic offences (South Australia).
 - (e) Dated assault occasioning bodily harm (Victoria).
- [216] The Crown's submissions also refer to traffic offences and dishonesty offences, including stealing and providing false names and addresses in Western Australia.

- [217] You have pleaded guilty at a late stage. As previously discussed there is utility to the pleas.
- [218] However, in respect of remorse and/or contrition the Crown contends that your pleas in all of the circumstances do not reflect any contrition. But rather it is a reflection of the inevitability of the conviction.
- [219] The relevant circumstances include your statements at your interview and also your conduct more generally.
- [220] If the trials had proceeded, the primary evidence was to be the text of your communications. It was proposed that the communications would be read to the juries, which would have been hours and hours of the juries being subjected to hearing and reading distressing content. There are graphic and detailed descriptions of what was occurring, or what you wanted to occur. It is predominantly spelt out on the page. In this sense, the case against you was overwhelming. There was an inevitability to your conviction. But if the trials had proceeded, the juries would have had to be exposed to the evidence and had detailed directions in respect of that evidence. Your guilty pleas saved the members of the community serving on the juries to that considerable extent.
- [221] You have not shown any real remorse or contrition. Further, you have shown a shocking lack of insight into your offending.
- [222] There has been some but limited cooperation with law enforcement. But that needs to be considered against your actions when first intercepted by Australian Border Force at the airport.
- [223] When you were first intercepted you were asked to unlock your phone. You were observed deleting images. The count of obstructing a Commonwealth public official relates to that conduct.
- [224] When you were later interviewed, you said that it was adult pornography and you were embarrassed. Otherwise, you were guarded and did not admit the offending. You also denied looking at "child porn" and said that the visit to the Philippines were to visit your girlfriend, not children. When you were asked about messages relating to a 9 year old, your explanation was "it was just play" and you would not have gone through with it.
- [225] The evidence tendered on your behalf is:
- (a) a report from Dr Siva Bala (Exhibit 5); and
 - (b) a bundle of medical records (Exhibit 6).
- [226] Dr Bala's report sets out your antecedents. Your antecedents include that you were born in Melbourne and had a traumatic childhood which included both physical and sexual abuse. Dr Bala considers this is likely to have led to post traumatic stress disorder. You do have an older sister and a younger brother, a fraternal twin.
- [227] You attended school until about the age of 13, after which you ran away from home and were effectively homeless. You started driving trucks at 16 years of age. You

stole a truck and were incarcerated for 18 months. During this period, you suffered sexual abuse from three different men.

- [228] You also were involved in the Grafton bus crash in the 1980s and witnessed significant trauma.
- [229] You instructed Dr Bala that you had been diagnosed with borderline personality disorder and bipolar disorder. You had a failed suicide attempt at one time after discovering your partner had been unfaithful.
- [230] You commenced using alcohol at 15 years of age, and started using drugs at 19 years of age. You regularly used speed or ice, and at the time of the offending you instructed that you used speed daily.
- [231] Dr Bala's view is that you likely have a personality disorder with borderline and antisocial features, and a secondary diagnosis of substance use disorder and complex post traumatic stress disorder from childhood and adult trauma.
- [232] You have lived with Type 2 diabetes for a long period and you have not managed it well. You have also been a heavy smoker and now suffer chronic obstructive pulmonary disease.
- [233] Dr Bala also relevantly states:

“There does not appear to be a cognitive disorder, bipolar disorder, or other severe psychiatric condition that would impair [DXQ]’s actions and thoughts regarding the offending. The offending behaviour raises the likelihood of a paedophilic disorder, and a history of alleged childhood abuse is likely a factor influencing his offending. [DXQ] needs treatment for sexual offenders to address unresolved childhood trauma and to understand its impact on his adult personality development and poor coping mechanisms, including substance abuse”.
- [234] The opinion of Dr Bala can be understood to be that there is no cognitive disorder or other severe psychiatric condition that impaired your actions and thoughts regarding the offending.
- [235] Dr Bala expressly states that your offending is not explained by any mental illness such as bipolar disorder, cognitive or intellectual impairment or substance use disorder.
- [236] In these circumstances, no issue arises as to your moral culpability in accordance with the principles in *R v Verdins* (2007) 16 VR 269.
- [237] Further, Dr Bala's report provides no basis to reduce the need for general deterrence as a result of a causal nexus between the offending and your mental state in accordance with the principles discussed in *R v Waters; Ex parte Director of Public Prosecutions (Cth)* (2023) 15 QR 73.
- [238] Dr Bala does attempt to draw a link between your instructed sexual abuse and the current offending. This appears to be on a statistical basis and Dr Bala refers to research that victims of sexual abuse are more likely to engage in sexual offending.

[239] However, Dr Bala importantly qualifies this reasoning as follows:

“another important methodological point is that child abuse has an association with onset of subsequent sexual offending, but not necessarily persistent sexual offending.”

[240] The current offending is persistent sexual offending. It involves many children over a protracted period of time. Consequently, to the extent that Dr Bala attempts to draw a link between the offending and your own instructed sexual offending that link is not established on Dr Bala’s own reasoning, or should be given little or no weight.

[241] Dr Bala’s opinion in respect of the likelihood of a paedophilic disorder and your need for treatment for sexual offenders is relevant to the sentence. It is also relevant that Dr Bala records that you emphatically denied any sexual interest or attraction to children. Further, Dr Bala records:

“His focus was on his vulnerabilities, injuries and he tended to externalise some blame and responsibility. He reported little insight into the offending, although manifested shame and remorse.”

[242] All of this tends to support you having little or no insight into the offending, even after you have been in custody for close to 7 years now and pleading guilty to the offending. And further, you have not shown any real remorse. It also is relevant to rehabilitation and the non-parole period.

[243] Also relevant to the sentence is the risk of reoffending. Dr Bala addresses this in the report and states:

“Risk factory for sexually abusing children including antisocial personality disorder, stimulant abuse and deviant sexual interest (paedophilic interests). It is unclear whether intoxication with substances played a part in some of the offending, but it [is] plausible [it] could have disinhibited [DXQ] and contributed to the poor impulse control in terms of underling deviant sexual interests.”

[244] Further, you have not engaged in any rehabilitation, nor engaged in any mental health treatment in a meaningful way. I do note that for the lengthy period you have been in custody on remand you may not have had the opportunity to do some of the sex offender courses, even if you had been open to so doing.

[245] Your childhood sexual abuse is a relevant consideration for the purposes of s 16A(2)(m) of the Crimes Act. The sexual abuse and your deprived background are mitigating features. However, they are one of a number of matters that are to be considered as part of the sentencing exercise and be weighed against the seriousness of the offending.

[246] The Crown submits that in all of the circumstances of this case, your own sexual abuse and deprived background do not warrant a substantial reduction in the sentence to be imposed.

[247] I accept your own sexual abuse and deprived background are relevant and I take them into account but I also accept the submission of the Crown that in all of the circumstances of this sentence they do not warrant any substantial reduction.

- [248] Your Counsel has taken the Court to your medical records. The medical records relate to the period prior to you being in custody, the day you were charged and also after you have been in custody.
- [249] Generally, your medical records show that you have Type 2 diabetes and are insulin dependent. You are obese and have suffered from a variety of ailments including hypercholesterolemia, gastro-oesophageal reflux disease, hiatus hernia, hypertension, chronic bronchitis, emphysema and DVT. You are on various medications. You have previously had surgery for tennis elbow. You have over a prolonged period of time used illicit drugs. You have received assessments in respect of possible mental health issues at various times.
- [250] The medical records are consistent with your diabetes and weight not being managed well by you in the community. You had previously been offered bariatric surgery but cancelled at the last minute. You are recorded as a smoker and smoked 25 to 30 cigarettes a day at one point. You are recorded as having a family history of heart disease.
- [251] The records do cover some of the time you have been in custody and do record that your diabetes has been uncontrolled, at some points in time. The notes include that in September 2025 you admit to not eating well as you do not like the food in custody and that you eat mainly chocolates. This is despite being referred to a dietician in May 2023.
- [252] One of the records from 12 March 2021 states “When [DXQ] was first incarcerated in late 2019 he was noncompliant with his medication ... The past year [DXQ]’s blood sugar control has been much improved, with no recent hypos on record and very stable BSLs >3 months”. The improvement was such at that time a medical certificate could be provided to support a private driving licence. A further referral to the Endocrinology clinic in August 2021 also notes that “diabetes well controlled on current management”.
- [253] You have instructed your Counsel that you have had a recent heart issue and have medication for angina. Further, you have instructed that your kidney function has decreased.
- [254] Your Counsel has taken the Court to the decision of the Court of Appeal of Western Australia in *Dixon v the King* [2026] WASCA 48 where the Court, in joint reasons of Quinlan CJ, Thomson P and Vaughan JA, considered whether the sentencing judge had erred in finding that the appellant’s age and health conditions did not ameliorate the total effective sentence.
- [255] The appellant was 74 years of age and suffered cancer (melanoma) and a mild neurocognitive impairment. At first instance it was submitted that the appellant’s time in custody was more onerous because of his medical conditions, but it was not suggested that any of his conditions could not be properly managed in the prison environment.
- [256] In outlining the general principles, the Court at [204] recognised that:
- “Age and ill health, being matters personal to an offender, are, of course, relevant sentencing considerations. The impact of those

considerations on a sentence, or total effective sentence, if any, will vary from case to case.”

- [257] At [207] the Court referred to the comments of Steytler P in *Gulyas v The State of Western Australia* [2007] WASCA 263; (2007) 178 A Crim R 539 at [36], with whom McLure and Miller JJA agreed. In considering that illness may be a mitigating factor where it cannot be treated effectively in prison or where it is of a nature that will result in imprisonment being more onerous than in the ordinary case, his Honour referred to the following quote from *R v Smith* (1987) 44 SASR 587 at 589 where King CJ stated:

“The state of health of an offender is always relevant to the consideration of the appropriate sentence for the offender. The courts, however, must be cautious as to the influence which they allow this factor to have upon the sentencing process. Ill health cannot be allowed to become a licence to commit crime, nor can offenders generally expect to escape punishment because of the condition of their health. It is the responsibility of the Correctional Services authorities to provide appropriate health care and treatment for sick prisoners. Generally speaking ill health will be a factor tending to mitigate punishment only when it appears that imprisonment will be a greater burden on the offender by reason of his state of health or when there is a serious risk of imprisonment having a gravely adverse effect on the offender’s health.”

- [258] The Court was considering the second limb of the totality principle, founded on mercy. The question was whether the total sentence was crushing. The Court noted the principle from *Moore v The State of Western Australia* [2023] WASCA 156 that in considering whether there was a proper foundation for an exercise of mercy it was relevant to take into account the nature and circumstances of the offending and the personal circumstances of the offender.

- [259] The Court went on to observe that whatever the approach, the relevance of age and infirmity in sentencing is mercy. Their Honours stated at [211]:

“.. it is considerations of mercy that will determine whether leniency will be afforded to a particular offender of advanced age or whether a total effective sentence is ‘crushing’, in the sense that it would destroy any reasonable expectation of a life after release from prison. Similarly, illness will generally only have an ameliorating effect on a sentence when it appears that imprisonment will be a greater burden on the offender by reason of their state of health or when there is a serious risk of imprisonment having a gravely adverse effect on the offender’s health.”

- [260] Overall, in that case, the Court concluded there was not an error in the sentencing judge not ameliorating the total effective sentence. The matters were taken into account but were of relatively little weight in the sentencing exercise.

- [261] Specifically in relation to the health conditions, there was no medical evidence to suggest that the health conditions could not be properly managed in prison or to suggest that there was serious risk of imprisonment having an adverse effect on his

health. Accordingly, there was no evidence to support the submission that the offender's time in custody had been, or would be, more onerous compared to other prisoners.

[262] Further, the Court concluded at [213] that:

“In particular, there was nothing to support the conclusion that his health was markedly different, in terms of its impact upon him, than other persons of his age.”

[263] Here, similar considerations arise:

- (a) There is no evidence that your medical conditions cannot be properly managed in prison or to suggest that there is serious risk of imprisonment having an adverse effect on your health. In fact, there is some evidence to the contrary: there is some evidence that your diabetes is being monitored and managed in custody and there is some evidence that your weight may also now be being addressed in custody, which may in itself assist in the management of your diabetes. The fact that your ability to exercise may be limited in the custodial environment, is only one of the many factors relevant to managing your medical issues, and in itself is not determinative.
- (b) In these circumstances, there is no evidence to support the submission that your time in custody had been, or would be, more onerous compared to other prisoners.
- (c) There is no evidence to support the conclusion that your health is markedly different, in terms of its impact upon you, than other persons your age.
- (d) You are 10 years younger than the offender in *Dixon v the King*, and the issues considered and rejected there in relation to age do not arise to the same extent in respect of you. This was acknowledged by your Counsel in submissions.
- (e) The second limb of the totality principle requires consideration of avoiding a total effective sentence that is ‘crushing’ by destroying any reasonable expectation of a life after release from prison. Given your age, there is the prospect that you could be released on parole. Beyond that, it would be speculation as to your quality of life upon your release.

[264] In these circumstances, as part of the single step instinctive synthesis I take into account your age and medical conditions, but in the circumstances do not consider they give rise to a basis for the exercise of mercy to significantly reduce the sentence. They are to be applied in the ordinary exercise of the sentencing discretion, taking into account your personal circumstances and considering totality.

[265] You have been on remand since 24 November 2019 and the time of 2,503 days from 24 November 2019 to 30 September 2026 is declarable pursuant to s 159A of the *Penalties and Sentences Act 1992* (Qld), which is applicable for Commonwealth sentences by s 16E of the Crimes Act. This is approximately 7 years.

Comparative authorities

[266] Consistent with the principles in *Barbaro v The Queen*; *Zirilli v The Queen* (2014) 253 CLR 58 the Crown does not suggest a sentence range. Rather, the Crown relies

on the analysis of the comparative authorities to assist the Court. The analysis of the comparative cases is set out in the Comparative Case Schedule that was filed by the Crown with the written submissions.

- [267] The authorities in the Comparative Case Schedule will be considered. However, I note at the outset that there is no “useful” appellate authority for the preparing for or planning sexual intercourse with a child outside Australia offences: which are Counts 1 and 12. The case of *Dixon v R* [2025] NSWCCA 41 did involve that offence but the circumstances of that case mean that the more serious offending subsumed any analysis of that offence.
- [268] Accordingly, in approaching the sentence in respect of Counts 1 and 12, the Court is to adopt the approach described by Mullins J (as the President then was) in *R v Goodwin; Ex Parte Attorney-General* (2014) 247 A Crim R 582.
- [269] The Crown identifies the authorities of *Director of Public Prosecutions (Cth) v Beattie* (2017) 327 FLR 71, *R v Schultz; Ex parte Director of Public Prosecutions (Cth)* [2023] QCA 150 and *Baden v R* [2020] NSWCCA 23 as the most useful. Although the Crown does submit that your criminality exceeds the criminality in each of these case and consequently a higher sentence and non-parole period would be called for.
- [270] The Crown also relies on *Rivo v The Queen* [2012] VSCA 117, *Doig v R* [2023] NSWCCA 76, *Lane v R* [2025] NSWCCA 113 and *R v Willie Arthur Mareko* (Crow J, 19 September 2023) as being of assistance in the sentencing exercise.
- [271] On your behalf submissions are made in respect of the authorities relied upon by the Crown as well as some additional authorities. There is a significant divergence as to where your offending sits in respect of the comparative authorities. This effects the head sentences, the non-parole period and also the overall effective sentence.
- [272] Considering the comparative authorities in turn.

Director of Public Prosecutions (Cth) v Beattie (2017) 327 FLR 71

- [273] *Beattie* was a successful Crown appeal against an effective sentence of 10 years with a non-parole period of six years. On appeal, the sentence was increased to 14 years imprisonment with a non-parole period of 10 years.
- [274] The charges included one count possession of child abuse material (state offence), 21 counts of causing child to engage in sexual intercourse in the presence of the defendant, the child being under 16 and the sexual intercourse having been engaged in outside of Australia and one count of causing a child to engage in sexual activity in the presence of the defendant.
- [275] The circumstances of the offending included that the offender used an online application to pay for and direct live sex acts between adults and children in the Philippines. Approximately 17 children appeared in the video. The ages were pre-pubescent to pubescent boys. The offending occurred across an approximately eight-month period. The offending involved the live sex shows including oral sex between children and an adult male, one incidence of vaginal intercourse between a boy and an adult female, and an adult male ejaculating into the mouths of children. There was

also one incidence of rough and forceful anal intercourse involving a child and the facilitator.

- [276] The circumstances also included the offender recording and storing the live shows. Further, the offender ceased of his own accord.
- [277] The Crown accepts that the specific conduct in *Beattie* exceeds the seriousness in any given example in the current case. However, the Crown submits a higher sentence is warranted in the current case due to the duration of the offending and the number of victims in particular.
- [278] The Crown helpfully undertakes an analysis of the various features in *Beattie* and the current offending. This includes:
- (a) *Beattie* was a very early plea of guilty. In comparison, here it is a late plea. The Crown also submits that plea in effect was “a concession of the inevitable”.
 - (b) *Beattie* involved a discount for past assistance with the authorities. In comparison, here there is in fact a charge of obstructing a public official and no real assistance.
 - (c) *Beattie* involved the offender stopping of his own accord, showing remorse and contrition and enrolling in rehabilitation programs. In comparison, here there is little or no evidence of remorse, contrition or rehabilitation. The Crown submits in the current circumstances specific deterrence has a greater importance.
 - (d) *Beattie* involved the offender being of good character and having no prior criminal history, although that was not given substantial weight. In comparison, here you have a criminal history and are said to be of poor character.
 - (e) *Beattie* involved 17 children. In comparison, here your offending involved approximately 25 children. The Crown submits that given the sentence needs to acknowledge the harm to each victim, this necessarily has an impact on the current sentence.
 - (f) *Beattie* involved offending over 8 months. In comparison, here your offending occurred over approximately 20 months. This is about 2.5 times the offending period.
 - (g) *Beattie* involved a maximum penalty of 20 years imprisonment. In comparison, here the maximum penalty is 25 years imprisonment. This is due to the offence of repeated sexual abuse of a child (Counts 3, 4 and 36) being present here but not in *Beattie*.
 - (h) *Beattie* included the forceful anal intercourse of a pre-pubescent child. In comparison, here that is not present. However, the current offending does include other aspects which are highly reprehensible. This includes a very young child, a disabled child, bestiality, themes of incest and the serious planning offences which included travel to the Philippines on two occasions for the purpose of having sexual intercourse in respect of two children, all of which were not present in *Beattie*.

- [279] Counsel on your behalf has relied principally on the comparative authority of *Beattie* in support of a proposed total effective head sentence of 13 years. It is submitted that the overall criminality in *Beattie* was reflected in the head sentence of 14 years involved 23 offences in respect to 17 boys aged between 10 and 15 years of age. The offender had no prior history and voluntarily ceased offending. The offending involved regular recordings of the offending, and the details included the length of the various recordings.
- [280] Ultimately, it is submitted that the 23 counts in *Beattie* reflect the criminality in the current 98 counts. The facts in the Agreed Statement of Facts (***Exhibit 1***) establish you purchased 28 individual live child abuse shows and shows were performed in 13 instances.
- [281] Counsel points to [73] and [79] of ***Exhibit 1***, the Agreed Statement of Facts, which record the timing of the shows as 51 minutes and 41 minutes. Your Counsel submits that the length of time of the recordings must be a significant factor as it reflects the length of time the victims were abused. Counsel identified in *Beattie* 12 groups of recordings, often of multiple videos, of between 14 minutes and 54 minutes in total for each group. This can be analysed as follows: two at 14 minutes in total, 17 minutes in total, two 20 minutes in total, one 21 minutes in total, one 25 minutes in total, two at 30 minutes in total, one 35 minutes in total, one 28 minutes in total and one 54 minutes in total.
- [282] Counsel acknowledges the absence of remorse and insight in comparison to the findings in *Beattie*. However, overall it is submitted that the current offending is on par with that in *Beattie*. This is reflected in the proposed 7 year sentence on Counts 3 and 4 and the proposed 6 year sentence on Count 36, partially accumulated.
- [283] It is also submitted that the number of counts involved here does not impact the sentence and does not require a degree of uplift to arrive at the total effective sentence.
- [284] The Crown addressed the submission made in respect of the duration of the video recordings in *Beattie* in comparison to the current offending. It is submitted that this level of granular comparison is not helpful to the specific sentencing task to be undertaken by the Court consistent with the Crimes Act principles. In any event, the Crown does point to the evidence of duration in respect of the current offending in ***Exhibit 1*** the Agreed Statement of Facts: including 2 videos of 1 hour 30 minutes at [67], one of 21 minutes at [156], one at 51 minutes at [161], one at 35 minutes at [193], one at 30 minutes at [203], one at 3 minutes at [421] and one at 15 minutes at [447], in addition to [73] and [79] identified by your counsel.

R v Schultz; Ex parte Director of Public Prosecutions (Cth) [2023] QCA 150

- [285] *Schultz* was a successful Crown appeal against an overall sentence of 9 years imprisonment with a non-parole period of 4.5 years, adopting the *Nagy* approach. The majority of Bond JA and Dalton JA found error and resentenced the offender to an effective sentence of 13 years with a non-parole period of 7.5 years. In doing so a partially accumulated structure was adopted in preference to the *Nagy* approach. This was to overcome the error of the global head sentence on the most serious count not

paying adequate regard to the criminality involved in the “other offending” and the sentence not adequately reflecting the overall criminality.

- [286] The charges were 10 counts of using a carriage service to solicit child pornography material, five counts of using a carriage service to solicit child abuse material, two counts of persistent sexual abuse of a child outside Australia, one count of sexual intercourse with a child outside Australia, five counts using carriage service to transmit child pornography material, one count using carriage service to transmit child abuse material, one count using a carriage service to prepare or plan to engage in sexual activity with a person under 16, two counts procuring a child to engage in sexual activity outside Australia, one count controlling child abuse material for use through a carriage service and four counts of possession of child exploitation material in contravention of the Queensland Criminal Code.
- [287] The circumstances of the offending included that the offending was committed over a 14-month period and involved one adult female, her eight-year-old daughter, a three or four-year-old niece and some other children. The offending included two counts of persistent sexual abuse of a child outside Australia, involving the same eight-year-old child (Counts 8 and 21). That offending included penile vaginal intercourse, including by older male relatives, painful vaginal penetration by a bottle and also digital and oral penetration involving the eight-year-old, her mother and the four-year-old niece.
- [288] The Crown accepts that the conduct in respect of Count 8 in *Schultz* was objectively more serious than the persistent sexual abuse in Counts 3, 4 and 36 of the current offending. However, the Crown submits that some of the features of the current offending offset that difference so that the current offending is more serious offending than in *Schultz*. The Crown submits a higher sentence is warranted in the current case due to the duration of the offending and the number of victims in particular.
- [289] An analysis of the various features in *Schultz* and the current offending gives rise to the following considerations:
- (a) *Schultz* involved offending over a 14 month period. In comparison, here the offending was over a 20 month period.
 - (b) *Schultz* involved offending against a number of children, likely to be less than 10. In comparison, here the offending involved 25 children.
 - (c) *Schultz* involved discussion of the possibility of international travel for the purpose of sexual abuse but no actual travel occurred. In comparison, here you travelled to the Philippines twice for that purpose.
 - (d) *Schultz* did not involve extremely young children, bestiality, disabled child victim or threats and coercion to facilitators. In comparison, here all of those features are present.
 - (e) *Schultz* involved more favourable antecedents with no criminal history. In comparison, here you do have a criminal history.
 - (f) *Schultz* involved an early guilty plea, cooperation with police and admissions. In comparison, here there is the charge of obstructing a public official and the late pleas of guilty.

- [290] On your behalf it was submitted that in *Schultz* Count 8 in relation to the persistent sexual abuse of a child outside of Australia is more serious than here. It involved penile penetration on one occasion, deep digital penetration on another and penetration with a bottle and three fingers on the third occasion. The offending also involved three further occasions of directing the child to have sex which was live streamed. It is submitted it was that offending that warranted the “uplift” on appeal.

Baden v R [2020] NSWCCA 23

- [291] *Baden* was an unsuccessful appeal against a sentence of 11 years and 4 months with a non-parole period of 7 years and 4 months.
- [292] The charges were two counts of procuring a child to engage in sexual activity outside Australia, one count of persistent sexual abuse of a child outside Australia, one count of engaging in sexual activity with a child outside Australia and two counts of possession of child abuse material.
- [293] The circumstances of the offending included that the offences were committed over a period of 4.5 years and involved two sisters aged 6 to 11 and 2 to 7 years of age. Further, it was a late plea of guilty, occurring on the first day of trial. An amount in excess of \$26,000 was forwarded to the mother of the children over the period. The offender had chats and webcam exchanges with the children of a highly sexualised nature, including giving details of the various sexual acts he wanted to perform on the victims. There was also sexual activity by the offender on three occasions with the elder child and one with the younger child. This involved the children engaging in sexual activity while the offender masturbated on the webcam.
- [294] While the Crown accepts that the conduct in respect of *Baden* was more protracted offending and the children were of young ages, the Crown submits that the sexual offending was not to the same level as here. The Crown submits a higher sentence is warranted in the current case due to the sexual activity involving multiple victims being abused simultaneously and adults were physically involved in performing the sexual abuse on the children.
- [295] An analysis of the various features in *Baden* and the current offending gives rise to the following considerations:
- (a) *Baden* involved offending over a 4.5 year period. In comparison, here the offending was over a 20 month period.
 - (b) *Baden* involved two children. In comparison, here involved 25 children.
 - (c) *Baden* did not involve an adult female (generally related to the child) and did not include oral or digital penetration of the child by others. In comparison, here those features are present.
 - (d) *Baden* involved at least one occasion where the offender indicated what he would like the children to do. In comparison, here you exercised a significant level of control, directing the children as to what you wanted to see.
 - (e) *Baden* did not involve travel for the purpose of engaging in sexual intercourse. In comparison, here you travelled to the Philippines on two occasions for that purpose in respect of a 9-year-old child and a 12-year-old child.

- (f) *Baden* involved a late plea of guilty on the first day of trial. In comparison, here the late pleas of guilty occurred just less than 2 weeks before the trial of the first tranche.

[296] The Crown also submits that *Baden* is particularly useful in considering the sentence to be imposed on Sequence 2. The analysis between *Baden* and Sequence 2 of the current offending is as follows:

- (a) *Baden* involved two children. Sequence 2 involved three children.
- (b) The sexual activity in Sequence 2 was of a higher order than in *Baden*, as it involved adults, oral sex and digital penetration.
- (c) There was grooming in both *Baden* and Sequence 2, but Sequence 2 is a more serious given it involved the planning offence.

[297] Overall, the Crown submits that Sequence 2 is at least as serious as the offending in *Baden*, although of a shorter duration.

[298] The Crown also submits that *Baden* was applied in *Schultz*, and accordingly it is a useful yardstick.

[299] Your Counsel has submitted that *Baden* had a highly relevant criminal history and the guilty pleas were on the first day of trial. The criminal history in *Baden* included a previous term of imprisonment for three sexual offences involving penetration of his stepdaughter from the age of 10 years, over a three year period.

[300] Your Counsel submits that *Baden* only has a limited use in relation to Sequence 2. It involved a larger amount of money over a longer period. Consequently, it is submitted that *Baden* does not support Sequence 2 warranting a 10 year plus sentence.

Rivo v The Queen [2012] VSCA 117

[301] *Rivo* was an unsuccessful appeal against a sentence of seven years imprisonment with a non-parole period of 5 years.

[302] The charges were one count of causing child pornography material to be transmitted to self and one count of engaging in conduct to procure a child under the age of 16 to engage in sexual activity outside Australia. Relevantly, at the time the maximum penalty was 15 years imprisonment.

[303] The circumstances of the offending included that the first offence was a “rolled up” count involving six online chat sessions where the offender gave instructions on live chat shows. Further, the second offence involved 12 occasions. The offender spoke of travelling to the Philippines but no steps were taken to do so. An aggravating feature was that the offending continued after the offender initially came to the attention of the authorities.

[304] The Crown submits the current offending warrants a significantly higher overall sentence than in *Rivo*.

[305] An analysis of the various features in *Rivo* and the current offending gives rise to the following considerations:

- (a) *Rivo* involved a maximum penalty of 15 years, significantly lower than here. In comparison, here the maximum penalty is 25 years.
- (b) *Rivo* did not involve obvious themes of incest, although the offending did involve children and adults. In comparison, here the offending involved what the Crown describes as the “cynical exploitation of the mother/child relationship and the destruction of family bonds”.
- (c) *Rivo* did not involve any offence of persistent sexual abuse of any individual children. In comparison, here the offending involved persistent sexual abuse against three children.
- (d) *Rivo* did not involve travel for the purpose of engaging in sexual intercourse with children. In comparison, here you travelled to the Philippines on two occasions for that purpose, which are serious examples of the planning offence.
- (e) *Rivo* involved live shows that occurred on 18 occasions, but the children were of higher age. In comparison, here you paid for 28 live sex shows, but participated in 13 shows. The children were aged 3 to 15 years, with the majority 10 years or above.
- (f) *Rivo* involved offending over a period of 10 months. In comparison, here the offending occurred over a period of 20 months.
- (g) *Rivo* involved a more favourable objective case, including pleading guilty at the earliest opportunity, remorse through a full and comprehensive record of interview, and a high level of cooperation. In comparison, here the guilty pleas were at a late stage, there is the charge of obstructing a public official, a criminal history, and a lack of cooperation and remorse.
- (h) *Rivo* involved favourable prospects of rehabilitation, as he had accepted responsibility and was prepared to undertake a sex offenders treatment course. In comparison, here you lack insight into the offending, denying any attraction to children, are untreated and at the current time your prospects of rehabilitation are lower.

Doig v R [2023] NSWCCA 76

- [306] *Doig* was a successful appeal against a sentence of 9 years’ imprisonment, with a non-parole period of 5.5 years. On resentencing, a sentence of 7 years 6 months’ imprisonment was imposed with a non-parole period of 4.5 years. This included a six-year term of imprisonment in relation to engaging in persistent sexual abuse of a child outside Australia.
- [307] The charges includes one count of procuring a child to engage in sexual activity outside of Australia, one count of possessed or controlled child abuse material obtained using a carriage service, one count of persistent sexual abuse of a child outside Australia and one count using carriage service to cause child abuse material to be transmitted to self.
- [308] The circumstances of the offending included that there was a single child victim, a 13-year-old Filipina child. The offender made payments over about 8 months for sexual videos or images of the child. There were repeat video calls where the offender watched in real time the child engage in sexual activity. The offender gave directions

about what he wanted the child to do. The conduct included stripping, dancing provocatively and masturbating. The child was also vulnerable due to her socio-economic disadvantage.

[309] An analysis of the various features in *Doig* and the current offending gives rise to the following considerations:

- (a) *Doig* involved an early plea, attracting a 25% discount on the notional starting point. In comparison, here the guilty pleas were late.
- (b) *Doig* had a compelling subjective case, including contrition, remorse, he had engaged in counselling before incarceration and was willing to continue treatment, he had prospects of rehabilitation, no prior convictions and had been gainfully employed for decades. In comparison, here your subjective circumstances are far less compelling.
- (c) *Doig* involved the offence of engaging in persistent sexual abuse of a child outside Australia occurred over a 2-day period. In comparison, here there are three counts of persistent sexual abuse of a child.

[310] The Crown submits that *Doig* is of assistance in setting the sentence for any of the proposed sequences. Further, a comparison of *Doig* and Sequence 2 alone, supports a sentence on Sequence 2 higher than the resentence on appeal in *Doig*. The comparison includes the following analysis:

- (a) *Doig* involved a single child of 13 years of age. In comparison, here 25 children were involved, between approximately 3 to 15 years of age.
- (b) *Doig* did involve masturbation, but did not involve oral and digital penetration involving adults and other children. In comparison, here all those features were present.
- (c) *Doig* did not involve themes of incest, nor were the serious planning offences involved. In comparison, here all those were present.

[311] The Crown also points out that when considering *Doig* and *Rivo*, the maximum penalty of 25 years was present in *Doig*, but only 15 years in *Rivo*, even though it involved more protracted offending and more victims.

Lane v R [2025] NSWCCA 113

[312] *Lane* was a successful appeal against an aggregate sentence of 7 years' imprisonment, with a non-parole period of 4 years and 3 months. On resentence, a sentence of 6 years' imprisonment, with a non-parole period of 3 years and 6 months was imposed.

[313] The charges were one count of importing prohibited Tier 2 goods (Child Abuse Material), two counts of procuring a child to engage in sexual activity outside of Australia, two counts of used carriage service to cause child abuse material to be transmitted to self, one count of using carriage service to solicit child abuse material, one count of using carriage service to access child abuse material and one count of possessed or controlled child abuse material obtained using a carriage service.

[314] The circumstances of the offending included that the offending occurred over a five-month period, involved speaking to three potential facilitators and offering to pay

money for on-line sexual activity and for video and images. He possessed a limited amount of child abuse material. Also relevantly, the offending continued while the offender was on bail. He also had a criminal history, but not for sexual offences.

[315] An analysis of the various features in *Lane* and the current offending gives rise to the following considerations:

- (a) *Lane* involved a maximum penalty of 15 years. In comparison, here the maximum penalty is 25 years.
- (b) *Lane* involved genuine remorse and an early plea of guilty. In comparison, here there is no evidence of genuine remorse and the guilty pleas were late.
- (c) *Lane* involved a longstanding history of schizophrenia, which had contributed to the offending in a material way. This required a reduction of the weight to be given to denunciation, specific and general deterrence. In comparison, here Dr Bala's view is that the current offending is not explained by any mental illness such as bipolar disorder, cognitive or intellectual impairment or substance abuse disorder. Further, there was no cognitive disorder or other severe psychiatric condition that would impair your actions and thoughts regarding the offending.
- (d) *Lane* involved guarded prospects of rehabilitation and a need for an unusually lengthy non-parole period. In comparison, here at the current time the prospects of rehabilitation are lower. Dr Bala is of the view that you need treatment for sexual offenders and you tend to externalise blame and responsibility.

[316] The Crown submits that *Lane* is of assistance in considering the sentence in respect of Sequence 12, which now forms part of Sequence 3 and that the sentence on Sequence 12 should be higher than the resentence on appeal in *Lane*. The comparison includes the following analysis:

- (a) *Lane* involved engagement with three facilitators and fewer children, over a shorter period of time. In comparison, here Sequence 12 involved 10 facilitators being engaged with and a longer period of time.
- (b) *Lane* involved a guilty plea at an early stage and genuine remorse. In comparison, here the guilty pleas were at a late stage and there is no evidence of genuine remorse.
- (c) *Lane* also involved a causal connection between paranoid schizophrenia and the offending. In comparison, here the evidence does not support such a conclusion.

R v Willie Arthur Mareko (Crow J 19 September 2023)

[317] *Mareko* is a single instance sentence where an effective sentence of 14 years' imprisonment with a non-parole period of 8 years was imposed using the *Nagy* approach.

[318] The charges included eight counts of procuring a child to engage in sexual activity outside Australia, one count of using carriage service to cause child pornography material to be transmitted to self, one count of using a carriage service to access child

pornography material, one count of causing a child to engage in sexual activity in the presence of the defendant, one count of grooming a child to engage in sexual activity outside Australia, two counts of using a carriage service to access child abuse material, one count of using a carriage service to cause child abuse material to be transmitted to self, one count of causing a child to engage in sexual activity in the defendant's presence outside Australia, one count of causing a child to engage in sexual intercourse in the defendant's presence outside Australia and one count of possessing child abuse material obtained via a carriage service.

- [319] The circumstances of the offending included the offending occurring over a 3.5 year period, over 11 facilitators and the offender requesting either live stream sexual abuse of children or child abuse material for small sums of money. Material was requested in relation to 13 different children and material was received in relation to four children. This included live stream of two children, with digital penetration and fellatio of a female child aged 4 to 7 years. Overall, there were 4 live shows that occurred. *Mareko* also involved requests for and possession of very serious child abuse material.
- [320] Also relevantly, mandatory minimum sentences applied in respect of two counts and also some of the maximum penalties were higher than for the same offences considered in respect of the current offending.
- [321] The Crown submits the current offending warrants a higher overall sentence than in *Mareko*. An analysis of the various features in *Mareko* and the current offending gives rise to the following considerations:
- (a) *Mareko* was for a longer period of 3.5 years, but only involved 18 counts. In comparison, here the offending was over a 20-month period and involves 98 counts. The current offending was more prolific.
 - (b) *Mareko* involved requests for material in relation to at least 13 different children, but only four live sex shows. In comparison, here you paid for 28 live sex shows and participated in 13 shows.
 - (c) *Mareko* did not involve any planning offences. In comparison, here you travelled to the Philippines on two occasions for the purpose of having sexual intercourse with two children, aged 9 and 12 years old.
 - (d) *Mareko* did not involve any offences of persistent sexual abuse of a child outside of Australia. In comparison, here you are to be sentenced in respect of that offending against three separate children (Counts 3, 4 and 36).
- [322] Your Counsel relied on additional authorities including *Director of Public Prosecutions (Cth) v Watson* (2016) 259 A Crim R 327, *R v Harrison*; *Ex Parte Director of Public Prosecutions (Cth)* (2021) 294 A Crim R 1, and various cases in respect of the non-parole period.

***Director of Public Prosecutions (Cth) v Watson* (2016) 259 A Crim R 327**

- [323] *Watson* was a successful appeal by the Commonwealth and State DPPs against a sentence of 7 years' imprisonment with a non-parole period of 4 years 8 months. The

resentence was 10 years and 5 months' imprisonment, with a non-parole period of 7 years and 3 months.

- [324] The charges included 27 child pornography offences, including state offences. In total 71 children were involved and child pornography was procured from 43 of the children. Additionally, there was soliciting of child pornography material from 10 children and 18 children were harassed in an effort to obtain child pornography.
- [325] The circumstances of the offending includes that the offending occurred over a 2 year and 8 month period. The offender was 29 to 31 years of age. The children were all girls aged between five and 16 years old. Fictitious social media accounts were used, where the offender posed as a teenage girl and asked the victim for nude photographs. Demands and threats were involved, including a threat to publish the material sent on the internet. Further, 1480 photographs and 41 videos were involved.
- [326] Aggravating features included the use of multiple fictitious identities and he actively transmitted the material. He also continued the offending while on bail. This case involved "rolled" up charges which covered multiple victims.
- [327] Counsel on your behalf relies on the features of 71 children being involved, the offending continued on bail and the offences occurred over a longer period in *Watson*, in comparison to the current offending.
- [328] The Crown contends that *Watson* is readily distinguishable from the current offending. It involved the respondent tricking and coercing young girls into sending pornographic images or videos of themselves. Further, the State offences are not readily comparable with the Commonwealth offences prohibiting child sexual abuse outside Australia.
- [329] The Crown accepts that there was the aggravating feature of offending while on bail but submits that the overall offending is substantially less serious than here.
- [330] The Crown submits that the sentence here should be substantially more than the 10 year sentence in *Watson*. An analysis of the various features in *Watson* and the current offending gives rise to the following considerations:
 - (a) *Watson* involved a maximum penalty of 15 years. In comparison, here the maximum penalty is 25 years.
 - (b) *Watson* involved vulnerable children due to their age. In comparison, here you prevailed upon the economic vulnerabilities of the children, including younger children. Your offending also involved using family members to assist in the exploitation of the children.
 - (c) *Watson* and here both involved threats and coercion.
 - (d) *Watson* involved material categorised as "Level 1", involving erotic posing with no sexual activity (including nudity, sexual suggestive posing, explicit emphasis on genital areas), with some "Level 2" which involved sexual activity between children or solo masturbation by a child (non-penetrative). In comparison, here the sexual activities that the children were exposed to included digital and oral penetration, incest themes and the involvement of adults in the sexual activity with children.

- (e) *Watson* did not involve any offences of persistent sexual abuse of a child outside Australia, nor any offending of preparing for or planning for sexual intercourse with a child outside Australia. In comparison, here the offending includes 3 counts of persistent sexual abuse with the higher maximum penalty and two counts of preparing for or planning for sexual intercourse with a child outside Australia.

[331] The Crown contends that this last distinguishing feature of itself necessitates a much higher sentence in the current case.

R v Harrison; Ex Parte Director of Public Prosecutions (Cth) (2021) 294 A Crim R 1

[332] *Harrison* was a successful Commonwealth appeal against a sentence of 6 years and 6 months' imprisonment with a non-parole period of 2 years 6 months. On resentencing, an effective head sentence of 8 years imprisonment, and a non-parole period of 5 years was imposed.

[333] The charges related to sexual offences involving children outside of Australia. The circumstances of the offending included that the guilty pleas were entered on five of the seven counts on day one of the trial, the offending involved three children. The respondent was 62 or 63 years of age. The victims were aged 14 or 15 years.

[334] Count 1 was persistent sexual abuse of a child outside Australia, concerning three occasions over a 10 month period. The respondent travelled to the Philippines and engaged in sexual intercourse with the child. The child was paid money at the end of each sexual act. The offending also involved five photographs of the child, naked but not involved in sexual activity.

[335] Counts 2 and 4 involved using a carriage service to cause child pornography to be transmitted to self and also using a carriage service to transmit child pornography material. The requests for the material regularly included inducements or threats, or other emotional manipulation.

[336] In *Harrison*, the respondent had a short and irrelevant criminal history. Further, he had not been entirely truthful when speaking with police.

[337] Further, your Counsel accepts that the offending in *Harrison* is of a different nature than the current offending given it involved actual sexual activity with a child outside Australia. However, it is submitted it is a useful yardstick.

[338] This case is also relied upon for the observations about the non-parole period being the minimum time determined to be spent in custody having regard to all of the circumstances. On resentencing, the non-parole period was 62.5% of the head sentence.

[339] This approach to the non-parole period is largely supported by the other authorities analysed in the defence submissions. Non-parole periods in the range of 57.14% through to 71.43% are relied upon to support the submission for the proposed ultimate non-parole period of 61.54%. The Crown does not dispute that a non-parole period at about 61% may be appropriate, but this depends on the underlying sentence.

Totality

- [340] It is also appropriate to consider the authorities in respect of totality.
- [341] The Crown relies on the discussion of the totality principle in *Beattie* in respect of cases involving multiple victims. Price J, with whom Walton J agreed, considered the offending conduct in sequences 12 to 20. At first instance these were treated as “relevantly proximate” even though the offences were committed over a two month period and involved sexual assaults upon a number of different children. Further sequence 12 involved a very high degree of objective seriousness and sequence 13 involved a high degree of seriousness.
- [342] Ultimately, Price J, with whom Walton J agreed, found specific error. The accumulation between all the offences failed to adequately acknowledge the separate harm done to each child upon the respondent’s instructions. In the circumstances, totality of the sentence was not just and appropriate.
- [343] Price J’s reasoning to reach that conclusion included the following observations:
- “[154] When applying the principle of totality, the question to be posed is not one of temporal proximity but whether the sentence for one offence can comprehend and reflect the criminality of the other offence. If it cannot, there should be at least partial accumulation otherwise there is a risk that the total sentence will fail to reflect the total criminality of the offences ... In *R v Harris* [2007] NSWCCA 130 ... the Court (McClellan CJ at CL, Hulme and Hislop JJ) when discussing the totality principle said at [44]-[45]:
- ‘44 Implementation of the principle of totality is perhaps the most common circumstances where concurrency of sentences is justified. However it is important that that principle be properly understood and applied. Perhaps the leading statement of it is an extract from DA Thomas, *Principles of Sentencing* endorsed in *Mill v R* (1988) 166 CLR at 59 at 63:-
- ‘The effect of the totality principle is to require a sentencer who has passed a series of sentences, each properly calculated in relation to the offence for which it is imposed and each properly made consecutive in accordance with the principles governing consecutive sentences to review the aggregate sentence and consider whether the aggregate sentence is ‘just and appropriate’.’
- 45 Two points may be made. Firstly, the principle is expressed in terms of coming back from the result of a simple aggregation. Secondly, if each individual sentence is appropriate for the criminality of the offence to which it relates, prima

facie additional criminality requires an increase in sentence. Obviously the totality principle imposes limits to that last proposition but those limits will rarely if ever go as far as to justify wholly concurrent sentences for all of a series of offences such as those here. Subject to those limits, in general, sentences significantly cumulative should be imposed for separate serious offences of which those here are all examples.’

[155] Furthermore, it does not follow that because a number of offences arise out of the same incident or course of criminal conduct, that concurrent sentences will be appropriate to meet the totality of the conduct involved: *Vaovasa v R* [2007] NSWCCA 523 ... at [15]. Where there are separate victims, the closeness and proximity of the offending will often not be determinative factors ...

[156] The sentence imposed for sequence 12 could not comprehend and adequately reflect the criminality of the offending in sequence 13. Furthermore, the concurrent sentences imposed in sequences 14 to 20 failed to acknowledge the separate harm done to each victim.”

[344] In *Beattie*, Basten JA dissented and would have imposed a sentence of 19 years in respect of the Commonwealth offences cumulative on the state offence, with an effective sentence of 20 years. His Honour considered in detail the approach to totality.

[345] Counsel on your behalf has referred the Court to the observations of Basten JA in respect of totality. Those observations are largely consistent with the principles informing the majority view in *Beattie* previously outlined.

[346] I take into account totality as part of the single step instinctive synthesis in undertaking the sentencing exercise.

Divergence on the comparative authorities

[347] Overall, the Crown submits that the overall current offending is:

- (a) worse than *Beattie*, where the sentence was 14 years imprisonment with a non-parole period of 10 years;
- (b) worse than *Schultz*, where the effective sentence was 13 years with a non-parole period of 7.5 years;
- (c) worse than *Baden*, where the sentence was 11 years 4 months with a non-parole period of 7 years 4 months; and
- (d) worse than *Mareko*, where the sentence was 14 years imprisonment with an 8 year non-parole period.

[348] Ultimately, Counsel on your behalf submits for an overall effective sentence of 13 years imprisonment with a non-parole period of 8 years.

[349] In light of the above reasoning, the Crown submits that an overall effective sentence of 13 years would be outside the proper exercise of the sentencing discretion.

[350] As part of the single step instinctive synthesis, I accept the Crown's analysis of the comparative authorities and the comparison to the current offending outlined above.

The rival contentions

[351] As the Crown is prohibited from making a submission as to an appropriate range, extensive submissions have been made about the nature and characterisation of the offending and the comparative authorities. This includes the factors that are present in respect of the current offending in comparison to the comparative authorities.

[352] As is apparent from the consideration of the comparative authorities earlier in these sentencing remarks it is impossible to fully reconcile the cases. However, the exercise does assist in highlighting the relative seriousness of the current offending and the level of criminality involved.

[353] The Crown has proposed a sentence structure in accordance with the draft order ***MFI S8***. The head sentences, the lesser concurrent sentences and the commencement date of the sentences in respect of the six sequences is necessarily left to the Court to determine.

[354] Counsel on your behalf has proposed an alternate draft order, ***MFI S7*** which has the following material elements:

- (a) A head sentence on Counts 4 and 3 of 7 years commencing on the date of sentence being today, with lesser concurrent sentences in respect of remaining counts in Sequence 2.
- (b) A head sentence of 6 years on Count 36 commencing two years after today, with lesser concurrent sentences in respect of the remaining counts in Sequence 5.
- (c) A head sentence of 4 years on Count 1 commencing six years after today, with lesser concurrent sentences on the remaining count in Sequence 1.
- (d) A head sentence of 6 years on Count 45 commencing seven years after today, with lesser concurrent sentences on the remaining counts in Sequence 4.
- (e) A head sentence of 5 years on Count 78 commencing eight years after today, with lesser concurrent sentences on the remaining counts in Sequence 3.
- (f) Various concurrent sentences in respect of Counts 82, 83, 102, 103, 109, 111, 112 and 113 described as Sequence 6 commencing eight years after today, being the same commencement as Sequence 3.

[355] It is submitted on your behalf that an effective sentence of 13 years with a non-parole period of 8 years is appropriate. Further, the time that you have been in custody on remand should be wholly declared.

[356] In reply the Crown contends that an effective total sentence of 13 years and a non-parole period of 8 years is outside the proper exercise of the sentencing discretion and

is not of a severity appropriate in the circumstances. In particular, the Crown raises the following matters for the Court's consideration:

- (a) The lesser concurrent sentence identified in the draft order *MFI S7* are not inappropriate in themselves and subject to the other matters identified by the Crown would be within the sentencing discretion.
- (b) The head sentences on Counts 4 and 3 in respect of Sequence 2 are too low. The offending involves persistent sexual abuse of a 12-year-old and 7-year-old, including oral sex and digital penetration. Count 13 is also in Sequence 2 and it is a serious example of a planning offence. These factors need to be reflected in the head sentence on Counts 3 and 4. In all of the circumstances, a 7 year head sentence is not of a severity appropriate in the circumstances.
- (c) The partial accumulation between Sequence 2 and Sequence 5 is only 1 year. That is not of a severity appropriate in all of the circumstances. Sequence 5 is serious in itself, involving persistent sexual abuse of a 14 year old and his aunt by the aunt performing oral sex on the child to ejaculation. Sequence 5 also includes Count 39 which is transmitting child pornography material to self, including of a 3 year old. The objective seriousness of this offence is Mid to High because of the age of the child. Further, Count 44 is grooming of another child aged 15 years to engage in sexual activity. The combination of the head sentence of 6 years on Count 45 and the "stagger" requires a greater degree of accumulation than the effective single year added to the sentence by the defence's proposal. The Crown relies on the comments of Bond JA in *R v Schultz; Ex parte Director of Public Prosecutions (Cth)* [2023] QCA 150 in respect of the accumulation required in that case, as particularly relevant here.
- (d) There is effectively no increase in the overall sentence by the sentence imposed on Sequence 3. That is, there is no "uplift" in the sentence between the sentence imposed on Sequence 4 and the sentence imposed on Sequence 3. Whilst the head sentence on Count 45 in respect of Sequence 4 is 6 years and the head sentence on Count 78 in respect of Sequence 3 is 5 years, the effect of the commencement date of the sentence is that the two sentences run in parallel and no additional time is to be served. Sequence 4 is offending in relation to preparing or planning where a show takes place. In contrast Sequence 3 is offending in relation to preparing or planning where no show takes place. However, Sequence 3 does include Count 21 which is classified as Mid to High objective seriousness due to it being in relation to a disabled child, Counts 56 and 57 are both Mid/High objective seriousness being preparing for or planning for child to engage in sexual intercourse (with each count being in respect of a different child) and Count 78 which has a high objective seriousness given the nature of the activity and two payments being made in an effort to get desired content for the show, which did not ultimately occur. The Crown relies on the coercive aspect. In all of these circumstances, the Crown submits there should be an effective "stagger" or uplift between the sentences in respect of Sequences 4 and 3.
- (e) In light of the other factors, the non-parole period may need to be adjusted upwards. The setting of a non-parole period at 61% of the total effective sentence is not objectionable as a yardstick.

- [357] In light of the Crown submissions in reply, subject to the Court being otherwise satisfied that it is appropriate in all of the circumstances, the matters in dispute between the parties have been significantly narrowed.

Single-step instinctive synthesis

- [358] General deterrence is an important factor in the sentence to be imposed. Relevant factors include the prevalence and availability of material on the internet and the relative anonymity that the internet provides. It is also relevant to general deterrence that the offending is difficult to detect, particularly like here it includes acts done overseas.
- [359] The protection of the victims is also an important consideration. I accept and endorse that a sentencing consideration for offences contrary to Division 272 is to deter such behaviour by sending a message to those who offend in this way: that is, you will be prosecuted in Australia and will receive a significant punishment. The overall objective is to protect vulnerable children from exploitation such as what occurred here.
- [360] Specific deterrence is directly related to you and your conduct. This is to be considered in the context of the prolific nature of your offending, your complete lack of any insight and lack of genuine remorse. Specific deterrence requires you to be adequately punished for the current offending. This is also required in order to meet the purpose of general deterrence and also in the current circumstances, the protection of children.
- [361] As part of the sentencing exercise, the Court is to consider prospects of rehabilitation. Given Dr Bala's assessment of you requiring treatment for sexual offenders and that you have persistently denied having any sexual attraction to children, the risks of reoffending plainly arise. This risk of reoffending particularly arises where you have been diagnosed with a personality disorder and "likely" paedophilic disorder, your complete lack of insight and externalisation of blame, and you have not engaged with any rehabilitation and/or mental health treatment.
- [362] You have not yet done a sex offender treatment program, and I accept that programs may not have been available to you on remand. However, Dr Bala identifies, and it is a logical and rational conclusion in all of the circumstances, that it is necessary for you to undertake a relevant sex offender treatment program. The setting of the non-parole period factors in a relevant sex offender program, followed by a lengthy period of supervision upon release.
- [363] On any consideration of the facts establishing the 98 offences you are plainly a person who is sexually attracted to both male and female children. The facts also establish that you are willing to give effect to that attraction. You are plainly willing to be involved in the sexual abuse of multiple children in order to satisfy your own sexual urges. You arranged and paid for the sexual abuse of children for the purpose of you deriving your own disordered sexual gratification.
- [364] The offending shows that you engaged in prolific conduct involving the sexual abuse of 25 male and female children over a period of 20 months. While you were not successful in engaging in actual physical offending yourself, you prepared to do so and travelled to the Philippines to do so on two occasions. Despite your endeavours

it did not occur on those two occasions due to matters beyond your control. You did not stop of your own accord.

- [365] A particularly appalling aspect of your offending is that your conduct resulted in the actual sexual abuse of vulnerable and impoverished children. The children were exploited by the facilitators. But you exploited both the children and the facilitators for your own disordered self-gratification. You counselled the sexual exploitation of the children.
- [366] There can be no doubt that what you caused to occur was highly destructive to those children. You destroyed what should have been protective family relationships, including that between mother and child. Your conduct was depraved. Your conduct was cynical. The only logical and rational conclusion is that your moral culpability for this offending is very high.
- [367] A clinical analysis of the facts does not do justice to the extent of your offending. Approximately 25 children were sexually abused. The ages of the children range between 3 to 15 years, with the majority 10 years and above. The offending averages as mid-level but with some serious elements at the high level. One child was three years old and you expressed interest in a baby. You encouraged incestual acts between children and between children and their mothers. The text messages refer to bestiality and it occurred on one occasion. The children were highly vulnerable to sexual exploitation given their impoverished circumstances. You coldly exploited this.
- [368] Further, you also exercised a high degree of control during the offending. It is plain that the children were abused at your request. It is also plain that the children were abused at your direction. The evidence shows that you gave clear and precise instructions on how you wanted the children to be sexually abused. You actively engaged in the shows.
- [369] While you did not yourself commit the physical acts of sex abuse, your integral role in the offending gives rise to a high degree of moral culpability.
- [370] On a number of occasions you felt you had been cheated or scammed. You complained and engaged in conduct akin to standover tactics. You threatened to report them to the authorities. You said you could find them in person.
- [371] You planned on two occasions to engage in the sexual abuse of particular children and went as far as traveling overseas to do so. The evidence shows a degree of planning, even if the offending could not be described as particularly sophisticated.
- [372] Accordingly, as required under the single step instinctive synthesis I have formed a view as to the appropriate sentence, including the sentence structure and the non-parole period, taking into account all of the relevant circumstances including but not limited to the following:
 - (a) all of the circumstances of the current offending, including your guilty pleas, the mitigating features, your personal circumstances and the basis of your criminal liability;

- (b) taking into account the sentencing considerations under the Crimes Act, including but not limited to ss 16A(1), 16A(2), 16AB(3), 16A(2AAA), 17A(1), 19(2) and 19AB and the relevant factors identified in the authorities;
- (c) for the purposes of s 17A(1), I have considered all available sentences and I am satisfied no sentence other than imprisonment is appropriate in all of the circumstances;
- (d) the time you have spent in custody and the time to be declared as time served under the sentence;
- (e) the non-parole period (being the period you are required to serve in custody before being eligible for parole), the lack of evidence as to your rehabilitation, the consequential risks of reoffending and the time required to undertake rehabilitation or treatment; and
- (f) totality.

[373] As part of the single step instinctive synthesis, I have reached a view as to:

- (a) the global sentence for each of the most serious offences for each of the six sequences, with lesser concurrent sentences for the other offences in each of the sequences;
- (b) the partial accumulation between the sequences by setting the commencement dates of the sentences for the various sequences and taking into account the effective end dates of the sentences for the various sequences;
- (c) the non-parole period; and
- (d) the total effective sentence, including considerations of totality.

[374] As part of the single step instinctive synthesis, I have:

- (a) incorporated a higher head sentence in respect of Counts 4 and 3 to reflect the overall criminality in Sequence 2, adjusted the accumulation between Sequence 2 and Sequence 5 to reflect the seriousness, the different victims and the overall criminality in respect of Sequence 5 and adjusted the accumulation between Sequence 4 and Sequence 3 to reflect the seriousness, the different victims and the overall criminality in respect of Sequence 3; and
- (b) incorporated the head sentences, lesser concurrent sentences and commencement dates with the resulting “stagger” which are not otherwise in dispute, being satisfied that these are appropriate in light of the adjustments above and in all of the circumstances.

[375] Accordingly,

THE COURT ORDERS THAT:

1. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 2 – Facilitator B		
Count	Term of imprisonment	To commence on 1 October 2026
4	11 years	To commence on 1 October 2026 and to be served concurrently with the sentence imposed in relation to Count 3 .
3	11 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
5	4 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 4 .
6	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
7	2 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 4 .
9	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
10	3 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
12	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
13	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .
15	4 years	and to be served concurrently with the sentence imposed in relation to Count 4 .

2. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 5 – Facilitator F		
Count	Term of imprisonment	To commence on 1 October 2033
36	6 years	To commence on 1 October 2033 and to be served partially cumulatively on the sentence imposed in relation to Count 4 .
37	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
38	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .

39	4 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
40	4 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
41	2 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
42	5 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
43	5 years	and to be served concurrently with the sentence imposed in relation to Count 36 .
44	3 years	and to be served concurrently with the sentence imposed in relation to Count 36 .

3. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 1 – Facilitator A		
Count	Term of imprisonment	To commence on 1 October 2037
1	4 years	To commence on 1 October 2037 and to be served partially cumulatively on the sentence imposed in relation to Count 36 .
2	3 years	and to be served concurrently with the sentence imposed in relation to Count 1 .

4. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 4		
Count	Term of imprisonment	To commence on 1 October 2038
45	6 years	To commence on 1 October 2038 and to be served partially cumulatively on the sentence imposed in relation to Count 1 .
46	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
47	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
48	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
49	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
50	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
51	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .

52	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
53	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
54	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
55	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
22	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
23	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
24	5 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
26	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
27	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
28	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
29	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
30	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
31	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
32	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
33	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
34	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
35	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
62	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
63	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
64	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .

65	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
66	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
67	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
68	3 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
69	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
70	4 years	and to be served concurrently with the sentence imposed in relation to Count 45 .
71	2 years	and to be served concurrently with the sentence imposed in relation to Count 45 .

5. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 3		
Count	Term of imprisonment	To commence on 1 October 2040
78	5 years	To commence on 1 October 2040 and to be served partially cumulatively on the sentence imposed in relation to Count 45 .
80	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
17	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
19	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
20	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
21	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
56	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
57	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
58	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
60	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

61	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
73	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
74	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
76	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
77	18 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
84	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
85	3 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
86	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
87	2 years and 6 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
89	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
90	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
91	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
92	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
93	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
94	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
95	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
96	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
97	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
98	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
99	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

101	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
104	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
105	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
107	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
108	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .

6. In respect of the following counts, you are convicted and sentenced as follows:

Sequence 6		
Count	Term of imprisonment	To commence on 1 October 2040
82	2 years	To commence on 1 October 2040 and to be served concurrently with the sentence imposed in relation to Count 78 .
83	4 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
102	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
103	2 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
109	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
111	3 years	and to be served concurrently with the sentence imposed in relation to Count 78 .
112	9 months	and to be served concurrently with the sentence imposed in relation to Count 78 .
113	18 months	and to be served concurrently with the sentence imposed in relation to Count 78 .

7. Pursuant to section 19AB(1) of the *Crimes Act 1914* (Cth), I fix a non-parole period of 12 years.
8. Pursuant to section 159A of the *Penalties and Sentences Act 1992* (Qld), as applied by section 16E(2) of the *Crimes Act 1914* (Cth), I declare the time of 2,503 days of presentence custody served by you from 24 November 2019 to 30 September 2026, to be imprisonment already served under the sentences imposed in respect of counts 1-7, 9, 10, 12, 13, 15, 17, 19-24, 26-58, 60-71, 73, 74, 76-78, 80, 82-87, 89-99, 101-105, 107-109 and 111-113.

- [376] I also make the order for forfeiture of the Samsung mobile phone and the Toshiba laptop in the terms of the draft order, which I have initialled and dated today.
- [377] Pursuant to s 16F of the Crimes Act, I must also give you an explanation when a sentence of imprisonment is imposed and a non-parole period is set.
- [378] Accordingly, I provide the following explanation:

EXPLANATION OF SENTENCE

CRIMES ACT 1914 - Section 16F & 19AL
Non parole period

For aggregated head sentence of more than 3 years

- A. I have sentenced you to “19” years imprisonment, but have fixed a non parole period of 12 years. That means that you will be eligible to be released from prison after 12 years, and if you are granted parole by the Attorney-General you will serve the balance of the sentence in the community subject to the conditions of a parole order.
- B. Your parole will be subject to the condition that you be of good behaviour and not violate any law. The Attorney-General may impose other conditions if appropriate.
- C. If you commit another offence or fail to comply with the conditions of parole your parole may be revoked and you could be required to return to prison to serve out the balance of your sentence.