



**R. v Emma Gardner
The Crown Court at Caernarfon**

**SENTENCING REMARKS OF
HIS HONOUR JUDGE PETTS**

1. Emma Gardner, you were convicted by a jury at trial of one offence against the Computer Misuse Act 1990 of securing unauthorised access to computer material held by North Wales Police from 19th January to 23rd September 2022.
2. I apologise in advance for the length of these sentencing remarks, but I need to set out the facts and the way I have reached my sentence. I have had the benefit of written sentencing notes before today from both counsel, for which I am grateful.

Background

3. You joined North Wales Police (NWP) in April 2000 aged 20 and then spent over 22 years in the police before being suspended. You progressed from being a uniformed officer to becoming a Detective Inspector in NWP Central Division CID. Your work included time in the PVPU (Protecting Vulnerable Persons Unit, dealing with domestic abuse, vulnerable adults and child protection) and the Amethyst Unit (dealing with serious sexual offences).
4. The character references from colleagues that were read at your trial show how highly they regarded you. A certificate of commendation for your dedication to duty and professionalism in a long and complicated investigation in 2008 has also been uploaded. I have no doubt that you were hardworking and conscientious.
5. You were suspended in November 2022 and resigned in August following your conviction.

The offence

6. Police computer systems contain a vast amount of sensitive information, details of which could undermine investigations or facilitate criminal behaviour. Access to them for personal use is strictly prohibited. If one were to formulate a list of computer systems across the country that needed protection from unauthorized access, police computers would be in the top category of importance.
7. In 2022, as the jury found, you repeatedly and unlawfully accessed case material when you had no legitimate police purpose to do this. The files involved four individuals who I do not need to name (although there is no reporting restriction in place). They were not needed to give evidence at trial, because the rights and wrongs of their allegations and counter-allegations were not the issue. Suffice it to say that there were various claims of harassment, anti-social behaviour or malicious communications involving (on one side) a man who I will refer to as M and a female friend of his, and (on the other side) M's former partner and her new partner.
8. Complaints were made to the police against M in late December 2021 and early January 2022, and he made a counter-allegation in mid-January 2022. In all, NWP ended up with thirteen separate but linked computer case files about these four people.
9. M was someone you had known since 2013 when you were a uniformed officer and he was a club doorman, becoming friends. You would sometimes meet up socially. You and M were clearly close, as shown by the thousands of messages (some of them flirty or personal) that the two of you exchanged in early 2022.
10. Although the investigations had some twists and turns, they never reached a level of severity or complexity that would have justified CID taking the case. You were therefore never involved as an investigating officer, nor would any of the investigating officers have known that you were looking at the cases because you neither left notes for them nor spoke to them about what you were doing behind the scenes.
11. A few days after the first complaint against M, you accessed the NWP computer system to look at details of the investigation. Thereafter you repeatedly accessed it. Analysis showed that you accessed the lead case in the relevant time period 25 times on 18 different days – more than you did for any other case on the NWP system, even

cases where you were one of the investigators. At one point for example you logged into the cases four days on the trot, while exchanging messages with M, sometimes when you were at work.

12. You maintained that on all of the occasions on which you accessed the case material, you did so for policing purposes, such as:

- checking progress so you could provide updates to M and his friend who was also making allegations;
- seeing whether the investigation had reached the level of complexity needed to be moved to CID; and
- seeing whether the file to be passed to the CPS had been prepared properly.

13. The jury clearly rejected this explanations. In general terms, there would be nothing wrong with you updating victims of crime about a case in which you were actually involved. The real difficulties here were, firstly, your undeclared friendship with M and, secondly, not telling anyone what you were doing or what you were telling him.

14. M was a suspect and on 28th May 2022 he was arrested. You knew that because he telephoned you and spoke to you at length on the following day. At that point, at the very latest, you should have declared your close friendship with M to the NWP Anti-Corruption Unit (“ACU”) under the force’s Notifiable Association Policy. This requires officers to declare situations in which, for example, they are close to people who are linked to investigations as suspects so that the situation can be managed carefully. The policy is in place because, for example, some criminals or suspects might be able to manipulate friends or family members in the police, knowingly or unknowingly, to find out more than they should about what the police knew or were doing.

15. It was clearly highly significant that you failed to notify the ACU. You said that you did not think about this. I am satisfied so that I am sure that you knew you should have told the ACU but decided not to, and that you have lied about this. You said in your prepared statement at interview that you thought the policy only applied to intimate friendships. I am also satisfied so that I am sure that that was also a lie. As a very experienced officer, and one who had received proper training and been in a situation requiring ACU guidance in the past, you deliberately chose not to mention your close

friendship with M, in case it led to an investigation into what you had already been doing.

16. It is also clearly significant that you stayed away from the case files for about two months after he was arrested. This shows me that you knew that accessing police files in relation to an arrested friend would be improper. However, you later began regularly accessing the files again with no policing purpose. Whether or not you were telling him what you found does not matter.
17. Messages that you sent to M also clearly show that you knew that you were acting improperly. In one message, in which you said that you could not do anything until a further allegation had been made by his friend, you wrote "*I can't get involved until I see it on the screen and she's reported it. I will be sticking my neck out as it is*". In my view, this was not because you wanted to avoid stepping on the toes of other officers in other departments, as you said to the jury. I am sure that you wrote this because you knew that getting involved in a case on behalf of a friend was impermissible.
18. That you knew this is also shown by what you did when M's friend made a further report and you asked a fellow inspector to see whether he agreed that it had not been allocated to the right category of response. When messaging the other inspector, you downplayed your connection to the parties involved. You said to M on this topic, "*I've not said I know you as I can't be seen to be heavily involved*". In fact, you knew that you could not be seen to be involved at all, or you would have been in trouble immediately.
19. You ran police computer searches on mobile phone numbers that had been used to sending harassing messages. You should have told the officer handling the investigation that you had done this, and also that there was no trace of those numbers on the police system. If you had been checking these numbers in order to help progress the investigation, that is what you would have done. However, doing that would have raised questions as to what you were doing in relation to this case and why, which is no doubt why you kept quiet about it.
20. Instead, you told M that the numbers were not on any police records. This had the potential to be of use to M and / or his friend if either of them were anything other than purely innocent victims, which you were in no position to decide. The investigating

officer would have also to waste time unknowingly repeating the work that you had done but not disclosed.

21. It was revealing that when you were messaging M about this, you said to him “*I have my uses*”. In my view, you were not simply providing a service comparable to that you would have provided to any member of the public, as you claimed to the jury. You were being of use to a friend when you accessed the system, rather than using the computer only for policing purposes.
22. You frequently said in your prepared statement and in your evidence that you were providing updates to victims of crime who were not getting a good service from the police. This does not ring true. If you genuinely wanted M and his friend to be getting better updates, then you should have spoken to the officer in charge or her line manager to say that your friend was unhappy about the amount of communication being received. That would have led to an improvement in the service and you would never have needed to check M’s cases at all.
23. Similarly, even if it was ever permissible for you to access the system to check on the need for updates (which I do not accept), leaving some notes on the case log about having to provide updates in the absence of contact from the investigating officer would have chivvied the officers along. However, once you had failed to do either of these things right at the outset, you obviously realised that doing so later on would simply have led to unanswerable questions about what you had been doing looking at the files at all.

Approach to sentence

24. There are no sentencing guidelines for offences under the Computer Misuse Act 1990.
25. First of all, therefore, I have to look at the Sentencing Council’s general guideline and the overarching principles it contains.
26. This requires me to look at the maximum sentence (here, two years’ imprisonment), relevant sentencing decisions of the Court of Appeal, and if possible sentencing guidelines for comparable offences (although I have not found any useful alternative guidelines and none have been suggested to me).

27. I also have to bear in mind the five main purposes of sentencing – punishment, reduction of crime including by deterrence, rehabilitation of offenders, protection of the public, and making reparations.
28. Then I have to look at your culpability in committing the offence and at the harm that your offending caused, was intended to cause, or might foreseeably have caused.
29. Finally, I have to consider aggravating and mitigating circumstances relating to the offence, including matters of personal mitigation.

Other comparable cases

30. Computer Misuse Act offences are often found in “hacking” cases, which this is not; on the other hand, while there are examples of Court of Appeal decisions in cases of police officers charged with misconduct in public office, which has a maximum sentence of life imprisonment, you were not charged with this, presumably because it was not felt that the case rose to that level of severity.
31. Nevertheless, the general principles to be found in some of the cases (as quoted in *Kadiri*, for instance) about the need for deterrence and punishment and about the importance of protecting confidence in the integrity and security of police computer systems have the same relevance, in my view, whether the case has been charged as misconduct in public office or under the Computer Misuse Act. I have not gained much help from individual decisions on their own facts in misconduct in public office cases, either as to the offence circumstances or mitigation.

Purposes of sentencing

32. Given the general principles set out by the Court of Appeal, I take the view that the most important of the five principles of sentencing here are punishment and deterrence. Other police officers who might be tempted to access computer records for private purposes need to know that the courts will take a stern view of such a gross breach of trust.

Culpability

33. Here, I consider culpability is somewhere between medium and high. I have already identified the reasons why access to police computer systems is a serious matter and why it is deliberately restricted. You were a senior officer with over 20 years of service.

You knew the rules and deliberately broke them on many occasions spread over several months – the length of time over which you offended is a very significant aggravating factor in terms of culpability. You abused the trust that the police force placed in you and that the public in general placed in the police. You have not only let yourself down but you have let down your colleagues too, at all ranks.

34. It was said on your behalf at trial that this could and should have remained as a disciplinary matter. I disagree strongly. This is a serious case and thoroughly merited a crown court prosecution.

35. That being said, this is a computer misuse offence, not an offence of misconduct in public office. This is not a case where you were accused of acting corruptly. You were not being paid to do what you did. In reality, though, these are reasons why it is not a more serious charge, not reasons why culpability for the charge of which you were convicted is lessened. Were it not for your personal circumstances, I would assess culpability as high, as the prosecution submits.

36. However, your personal circumstances provide some significant context here and that lowers your culpability to somewhere between medium and high. This is because your long service in the police has included repeated exposure to severe trauma. At one point in your career, for instance, you had dealt with 13 child death cases in 11 months, including attending the incident scene or post mortem in several of those cases.

37. All of this caused you some psychological harm in the form of Complex Post Traumatic Stress Disorder, for which you have been receiving treatment in the form of counselling since 2022 and also, more recently, medication. Indeed, the way in which the author of the pre-sentence report puts it is very concerning to me:

“For over two decades, the defendant worked in areas of policing that exposed her repeatedly to some of the most distressing aspects of human experience. Her professional role required sustained involvement in investigations concerning child deaths, serious sexual offences, domestic abuse, child exploitation, homicide, suicide and the safeguarding of highly vulnerable individuals. Unlike isolated traumatic events, this exposure was chronic, cumulative and prolonged, occurring over many years without sufficient opportunity for psychological

recovery. The evidence suggests that she continued to perform highly demanding public duties whilst carrying an increasing burden of unresolved trauma.”

38. Your Complex PTSD is relevant to culpability because (in the words of the PSR) it can lead to *“impaired professional judgement, difficulties maintaining boundaries, emotional over-identification with others and a diminished capacity to objectively assess situations that would ordinarily be navigated appropriately.”* This contributed to your serious failure of professional boundaries and judgment. That enables me to reduce my assessment of culpability a little. However, as you accept, your diagnosis does not excuse what you did.

Harm

39. In terms of harm that your offending caused, was intended to cause or might foreseeably have caused:

- (a) It was not suggested by the prosecution or any witness that your actions in fact prejudiced any criminal investigation or caused any individual any harm;
- (b) I do not consider that you were intending to prejudice any investigation or cause any harm, and that was not the prosecution’s case either;
- (c) However, I consider that there was clearly a significant wider risk to the administration of justice in what you did, because you were not in a good position to judge the potential impact on the investigation of what you were doing and it was entirely foreseeable that what you were doing might undermine or harm what your colleagues were doing.

40. Overall, though, I agree with the prosecution that harm is properly assessed as being low.

Aggravating and mitigating factors

41. I cannot see any further aggravating factors in the general list found in the sentencing guideline on overarching principles, but there are some potentially relevant mitigating factors.

42. You have no previous convictions. However, you were only able to be a police officer and commit this offence because you had no previous convictions. Your good

character is therefore not as strong a piece of mitigation as it would have been in other situations for another defendant accessing a different sort of computer system.

43. This was not an offence for gain, but personal gain is not inherent in this sort of offence anyway. In reality, the lack of financial gain from your offending is not mitigation but the absence of an aggravating factor.
44. I also bear in mind that this conviction has led to the end of your police career and will make it difficult to work in related fields in the future, but that does not remove the need for the court to pass a proper sentence.
45. There has also been some delay in bringing this case to trial. Although it was a sensitive case with lots to consider, I do not think that it really needed from November 2022 to February 2025 to start court proceedings. That this has been hanging over you for that time is a point in your favour, although of course it was your decision to wait for a trial once proceedings started.

Pre-sentence report

46. In the pre-sentence report, you now accept that your actions reflected poor judgment, blurred professional boundaries and an inappropriate level of personal involvement in matters in which you had no policing role. You have expressed remorse, which I accept, even though this is late in the day, and remorse is a general point of mitigation. You have engaged with mental health services, and have been assessed as suitable for a Mental Health Treatment Requirement element to any community-based sentence. I have read, but do not need to repeat in public, other very personal details from the report, but I bear those points in mind as mitigation.
47. Unsurprisingly, given the circumstances of your offence (based on privileged access to confidential information that you no longer have) and your previous good character, you are assessed as posing a low risk of re-offending and a low risk of causing serious harm to others.
48. The report suggests a community-based sentence focusing on rehabilitation rather than punishment (whether in the community or in prison). I bear in mind the likely impact of an immediate prison sentence on your health and efforts at rehabilitation.

Conclusions as to sentence length

49. This case clearly passes the custody threshold – in other words, it is so serious that only a sentence of imprisonment of some sort would be appropriate, as opposed to a fine or a community order. I reject the written submissions on your behalf that I can then draw back from a custodial sentence to impose a community order instead. That is unrealistic, given the seriousness of what you did and the principles I have set out.
50. Therefore I have to decide the appropriate length of sentence to match the seriousness of what you did, and finally decide whether the sentence should take effect as an immediate prison sentence or as a suspended sentence.
51. Bearing in mind all the points I have discussed already, including your personal mitigation and circumstances, my decision is that the appropriate prison sentence is one of 8 months. I now must decide whether that sentence should be suspended or immediate custody.

“Exceptional circumstances”

52. Sentences of not more than 12 months must now be suspended except in certain specific scenarios (none of which are relevant to this case) or where there are exceptional circumstances relating to the offence or the offender which justify not making such an order. “Exceptional” is a deliberately strong word, chosen by Parliament to emphasise how rare it should be that a short immediate prison sentence can be imposed in such situations. Exceptional circumstances must not be found too readily to undermine the will of Parliament in this respect.
53. The Court of Appeal has recently considered the meaning of this provision in a case called *Hodge* [2026] EWCA Crim 1181, and decided that “exceptional circumstances” can be found where the culpability of the offender or the harm caused, intended or foreseen, or both, were exceptionally high (see paragraph 20 of the judgment) or where any of the purposes of sentencing are exceptionally served by an immediate prison sentence rather than a suspended sentence, which includes the question of whether the conduct of the offender which constituted the offence is of a kind in which there is an exceptional public interest in deterring (see paragraphs 23 and 24 of the judgment).

54. On the first of these points, it would be inconsistent for me to say that your culpability is exceptionally high for this purpose when I have already placed it at between medium and high.
55. On the second of these points, an offence against s1 of the Computer Misuse Act 1990 can be committed by people in many different situations and occupations, not just police officers. Within the range of scenarios this offence covers, such offences committed by police officers are particularly and exceptionally serious, in my view, because of the trust that the public places in police officers, the extreme sensitivity of the contents of police computer systems, and the potentially devastating consequences for public justice of a police officer abusing that privileged access. The need for deterrence is clear. I do not think that it is sufficient to say that police officers will be deterred anyway by the inevitable loss of their job and a criminal conviction.
56. In all the circumstances, I take the view that an immediate prison sentence is required because of the exceptional public interest in deterring such behaviour by police officers in relation to police computer systems, even in cases that are not charged as misconduct in public office. This approach is one that I consider to be entirely in line with the approach of the Court of Appeal in setting out principles in past cases.
57. This is not a case where I need to impose a long sentence to make that point. As a matter of general principle anyway, the prison sentence must not be any longer than it needs to be to achieve its aim. But an immediate prison sentence is needed to make it clear to everyone that even detective inspectors are not above the law and that officers must not access police computer records unless there is a genuine policing purpose to do so.

Conclusion

58. Emma Gardner, please stand. I sentence you to 8 months' imprisonment. In the usual way set by Parliament, you will serve some of that sentence in prison (as I understand it, one-third), and then you will then be released on licence for the remainder. If you do not comply with the terms of your licence, or if you commit another offence, you may be recalled to prison and might have to serve the full 8 months.

59. You will also pay the statutory surcharge of £156 within 3 months of your release.

HHJ Petts

16th October 2026