

Sexual Intercourse With Child Under 10 Years

Pre 1.2.2003

s.66A (NSW) Crimes Act

s 66A Sexual intercourse child under 10 years

Maximum Penalty: 20 years

Commenced: 23.3.1986

Amended: 1.2.2003 (to increase penalty)

For offences under this section committed on or after 1.2.2003 see separate tables

Note: [s.25AA \(NSW\) Crimes \(Sentencing Procedure\) Act](#) applies to sentences imposed on or after 31.8.2018:

(1) A court must sentence an offender for a child sexual offence in accordance with the sentencing patterns and practices at the time of sentencing, not at the time of the offence.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	Bamford (33 at sentence) NSWCCA 23.7.1991	s.66A 3 x s.66C Att s.66C	PG	MT 9y AT 3y (concurrent sentences)	AA MT 7y AT 5y	No previous gaol	Sexually abused step-daughter aged 10-16y from 1986-1989 – part of wider pattern of sexual abuse Protective custody – appeal allowed to adjust ratio of sentence
2.	Tucker NSWCCA 13.4.1992	s.66A s.61E(1A)	VG PG	MT 8y AT 2y 8m FT 2y (concurrent)	AD	Priors	1988 - showed 8y daughter R-rated video – placed her on his knee and had intercourse – arranged for mother to leave house – pre-mediated offence – not isolated offence Low intellectual functioning
3.	Dunn (17) NSWCCA 15.4.1992	s.66A	VG	MT 3y 6m AT 14m	AA MT 18m AT 6m	Not stated	Female became angry with 3m child while bathing her – inserted fingers in anus – no sexual gratification – under influence of heroin

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4.	KSF (30) NSWCCA 10.9.1992	s.66A	PG (during trial)	MT 2y 6m AT 10m	Crown AA MT 3y 6m AT 18m	Long violent history including carnal knowledge – breached bond	Single digital penetration of 5y daughter of de facto - drunk, unreasonable and aggressive, ordering mother to leave house. Addicted to alcohol - disturbed background - no attempt made at rehabilitation.
5.	Marr NSWCCA 4.3.1993	s.66A s.66A 5 x s.61E(1)	PG	MT 6y AT 2y FT 2y FT 2y <u>Total:</u> MT 8y AT 2y	AA MT 4y AT 4y FT 2y FT 2y <u>Total:</u> MT 6y AT 4y	Record consistent with long term alcohol abuse	Offences committed from 1989-1990 – 6 complainants aged 4-12y – approached complainants when no adults around – penile penetration of anus of boy aged 6-7y - digital penetration of girl aged 8-9y – some offences committed in presence of other children Intellectually handicapped – very low intelligence
6.	Latu (57) NSWCCA 6.7.1993	3 x s.66A Act of indecency Sched: 5 x indecency off	PG	MT 6y AT 2y (concurrent sentence)	AD	Nil	Sexually assaulted young children of friends – well known by complainant's families and regarded by complainants as uncle – breach of trust – placed 4y child on lap and rubbed penis against vagina fully clothed – digital penetration of 5-7y child, 9y child and 5y child – offences committed over 6 years Mildly mentally handicapped - Tongan
7.	DCM (70 at time of first offence) NSWCCA 26.10.1993	5 x s.66A 7 x Indecent assault s.61M(1) Homosexual intercourse 2 x Act of indecency	PG	3y GBB 300h CSO	Crown AD	Nil	Nov 1986 – April 1991 – 5 complainants – touched vagina of 6y girl and slight digital penetration – sucked 9-12y grandson's penis, induced complainant to hold his penis and placed penis between complainant's legs – digitally penetrated 8-10y granddaughter – massaged breasts and forced fellatio – touched vagina of 10y girl on outside of underpants – handled penis of 5y grandson Bizarre reaction after prostate operation – dementia – prior good character and war service – disclosed guilt – evidence of successful treatment
8.	Allpass (1993) 72 A Crim R 561	s.66A	PG	5y GBB	Crown AD	Nil	75y digitally penetrated 9y girl while visiting in her home – arranged for brother to play outside - friend of family Prior good character – poor physical and mental health – impressive war service – extra-curial punishment

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9.	Page (60) NSWCCA 25.2.1994	2 x s.66A 4 x s.61E(1A) s.61E(2A)	PG	MT 3y AT 1y	AD	Nil	Offences committed 1988-1990 – committed on two sisters youngest aged 8y – close friend of family – touching and masturbating in front of complainant – forced second complainant to watch pornographic video, use vibrator and submit to cunnilingus
10.	Bryant NSWCCA 27.6.1994	s.66A 2 x s.61E(2A) s.61E(1A)	VG	MT 3y AT 1y (concurrent sentences)	Conviction AD		Stepfather sexual abused 7-9 complainant – had sexual intercourse with mother in presence of child – cunnilingus – forced manipulation of penis – paid to expose genital while offender masturbated
11.	KBW NSWCCA 26.8.1994	s.66A s.61O(1) 15 x s.61M(2) Sched: 2 offences	PG	MT 6y AT 4y FT 2y 6m FT 2y 6m (concurrent)	AD	Nil	Teacher committed offences 1991 –92 on four female students – touching genitalia inside underwear – placed penis against vagina – cunnilingus – encourage on complainant to lick penis Some evidence of remorse and contrition – undertaking therapy
12.	Drayton NSWCCA 12.10.1994	2 x s.66A s.61E(1) 2 x s.61D(1) 3 x s.66C(2)	PG	MT 6y AT 2y FT 6m FT 3y FT 3y (concurrent)	AA MT 5y AT 3y FT 6m FT 3y FT 3y (concurrent)		Offences committed 1983-1990 – de facto's daughters – touching of penis and digital penetration
13.	Brackenrig (36) NSWCCA 25.7.1995	s.66A s.61O(2)	PG	MT 3y AT 2y FT 18m (concurrent)	AD		Sexually assaulted 9y stepdaughter on multiple occasions – forced complainant to rub penis regularly – oral penetration on at least two occasions – representative counts Voluntarily ended conduct and arranged counselling
14.	Boyd NSWCCA 25.7.1995	s.66A	VG	MT 3y AT 2y	Conviction AD		Forced 4y son to bend over bed and had anal intercourse for 25 minutes.

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15.	DJMCC NSWCCA 28.11.1995	s.66A s.61E(1A) Sched: 2 x s.66A s.66C	VG	MT 6y AT 2y FT 2y (concurrent)	AD		Touched 9y step daughter on vulva – asked complainant to fellate him – placed her on bed – licked vagina and placed tongue in vagina - schedule offences committed against younger sister
16.	Balenaivalu NSWCCA 19.2.1996	s.66A s.61M(1)	PG	FT 1y MT 18m AT 18m (concurrent)	AD	Nil significant	Forced 11y step daughter to undress and touched and inspected vaginal area to see if she was shaving – admitted digital penetration of complainant when she was 5y - intoxicated at time of later offence
17.	Brooker (middle age) NSWCCA 21.2.1996	s.66A	PG	MT 3y AT 2y	Crown AA MT 4y 6m AT 2y 6m	lengthy including sexual offences on children	Met complainant's mother at pub and accompanied her home - when mother went out to buy more drink removed 4y girl's nappy and digitally penetrated her causing substantial damage - blood found on complainant's bed, on carpet leading to bathroom, bathroom wall and toilet – complainant hospitalised for five days Alcoholism and health problems
18.	L (57) NSWCCA 17.6.1996	s.66A 2 x s.61M(2)	VG PG	5y GBB	Crown AD	Nil	Sexually assaulted children of fellow parishioners from church on three separate occasions – visiting homes of parents of complainants – digitally penetrated 6y girl while attempting to settle her in her own bed – fondled genitals of 2y girl while reading book – touched 3y girl on vaginal area outside clothes Genuine contrition – disciplined by church – serious health problems made exceptional circumstances Sentence inadequate but discretion exercised to dismiss appeal
19.	G (1997) 42 NSWLR 451	2 x s.66A	VG	MT 2y AT 8m	Conviction AD		Daughter of de facto - on two occasions, 13m apart, complainant awoke in double bed – penis placed in mouth – threats

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20.	Fisk (26 -41) NSWCCA 21.7.1998	8 x s.79 s.81 4 x s.61E(1A) s.61D(1A) 3 x s.61D(1A) 4 x s.78K Aid and abet s.78K 2 x Aid and abet s.66A	PG	MT 9y AT 3y FT 2y FT 2y / 3y MT 7y 6m AT 2y 6m FT 6y MT 7y 6m AT 2y 6m MT 7y 6m AT 2y 6m FT 6y (all concurrent)	AD		(1974-1989) – sexually abused three male complainants aged 13-19y – all complainants from dysfunctional families – offences representative of paedophilic lifestyle
21.	BJH NSWCCA 23.11.1998	s.66A s.61M(2)	PG	MT 2y 6m AT 2y 6m FT 2y (concurrent)	AD	Minor	Sexually assaulted 8y daughter on contact visits Made full admissions – sexually abused as a child – sought counselling
22.	Davis [1999] NSWCCA 15	s.66A s.61M(2) s.61O(s)	VG	MT 6y AT 2y FT 2y FT 2y (concurrent)	AD		1996 - assaulted 9y step-daughter of friend and neighbour staying overnight in care of offender – touched breasts inside shirt while driving –vaginal intercourse while watching TV in bedroom – asked complainant to touch his penis
23.	Morrow (26) [1999] NSWCCA 64	s.66A	PG	5y GBB	Crown AD	driving offence	9y complainant - offender half asleep - child came to offender's bed - no active instigation - lack of complaint - unusual case Intellectually disabled - serious depression - serious suicide risk - unlikely to re-offend

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24.	Rapley (early 60s) [1999] NSWCCA 302	2 x s.66A 3 x s.61M(2)	PG	5y GBB	Crown AA MT 18m AT 6m FT 12m (concurrent)	Nil record	Sexually abused 8y granddaughter over 6 months – made full disclosure
25.	Mendoza-Torrico (35) [1999] NSWCCA 413	s.66A s.61M(2) s.61M(2)	PG	MT 2y AT 2y FT 12m FT 9m (concurrent)	AD	nil	Assaulted 9y daughter of de facto's sister – offences committed on three different occasions - tongue kissing, kissed body and vagina, placed hand on vagina, cunnilingus – breach of trust Born in Bolivia - difficult childhood – physical and sexual abuse – watched father commit suicide by setting himself alight – undertaken rehabilitation
26.	Lawson (40) [2000] NSWCCA 214	s.66A	VG	MT 3y AT 3y	Conviction AD		Friend of 8y complainant's mother – while collecting clothes from complainant's house while mother in hospital forced anal intercourse causing injury
27.	Campbell [2001] NSWCCA 89	4 x s.66A 5 x s.61M(2) 2 x s.61O(2)	PG	MT 4y AT 3y FT 2y FT 12m (concurrent)	AA 5y NPP 3y FT 2y FT 12m (concurrent)		Offences committed over 5 days while babysitting 4y granddaughter – played licking games where appellant licked complainant's vulva, fondled genitals through underpants and forced complainant to fondle his penis
28.	M [2002] NSWCCA 66	s.66A 2 x s.61M(1)	VG	6y NPP 3y 4m FT 2y 6m (concurrent)	AD	minor	Sexually assaulted 6y neighbour during one of her frequent visits – placed nozzle of vacuum cleaner on genitals under pants – forced complainant to rub his penis – placed penis in vagina Ill health – father to young child

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29.	CDH [2002] NSWCCA 103	s.66A s.66B 2 x s.61M(1) Sched: s.61M(1)	PG (30%)	6y NPP 4y 6m FT 2y FT 3y (concurrent)	AA 5y NPP 3y 3m FT 2y FT 2y 6m (concurrent)	Nil relevant	Sexually abused daughter aged 4-5y over 16m – cunnilingus, indecent touching, placing penis between legs, rubbing, masturbating in presence and attempted forced fellatio Insufficient weight given to voluntary confession – protective custody
30.	O.O. [2002] NSWCCA 416	s.66A AOABH Assault	PG	6y NPP 3y 6m FT 12m FT 14d (concurrent)	AD		Sexually assaulted 9y niece – penile intercourse - assaulted 11y half-brother with hose – complainants in offenders effective care and control Suffering schizophrenia
31.	Mills [2003] NSWCCA 145	s.66A s.61M(2) 2 x s.61M(2)	VG	5y NPP 3y FT 12m FT 1y 6m (concurrent)	Conviction AD		Sexually assaulted 6-8y daughter of wife – touched complainant on vagina in bathroom – touched complainant on vagina while she was sleeping at his place after separation from wife – digital penetration on separate occasion – touched complainant on vagina over underwear on third occasion – threats made to keep secret
32.	GLB (37) [2003] NSWCCA 210	3 x s.66A s.61M(2)	PG (25%)	4y NPP 2y FT 1y (concurrent)	AD	Nil	Licked 5y daughter's vagina and touched rubbed vagina with hands during contact visit – not isolated offences – degree of premeditation in showing pornographic magazines to complainant Voluntary disclosure to police before any complaint made – born with cerebral palsy causing physical disabilities
33.	ART (17) [2003] NSWCCA 189	s.66A Sched: s.66A	PG (25%)	2y NPP 9m	AD	nil	Sexual intercourse with 5y step-sister and her friend

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34.	Smith [2003] NSWCCA 353	3 x s.66A 2 x s.61M(2)	PG (15%)	7y NPP 4y FT 3y 6m <u>Total:</u> 11y NPP 8y	AD		Assaults committed upon stepdaughter aged 8-9 years old – forced complainant to perform fellatio.
35.	KBM (13) [2004] NSWCCA 123	s.66A	PG (25%)	3y NPP 12m (detention)	AA 3y NPP 4m 29d (immediate release)		Attacked 9y female acquaintance on walk home from school – forced penis in mouth Aboriginal with deprived childhood – sexually abused – early drug abuse – evidence of rehabilitation
36.	KLH (13) (2004) 148 A Crim R 515 [2004] NSWCCA 312	3 x s.66A	VG	5y 6m NPP 3y	AA 2y NPP 1y	Nil	Sexually assaulted 7y male friend staying in bedroom on two occasions – forced fellatio and anal intercourse Physical handicaps – low risk of re-offending – good detention record
37.	GWM (39) (2005) 152 A Crim R 482 [2005] NSWCCA 101	a.66A s.61M(2)	VG	6y 6m NPP 4y FT 4y <u>Total:</u> 7y 6m NPP 5y	AA 6y 6m NPP 4y FT 4y (concurrent)	Extensive record but no sexual offences	Assaulted 9y daughter of neighbour while babysitting for 30mins – licked vagina and anus of complainant under swimwear in complainant's house Brain damaged and schizophrenic – convicted of second offence as alternative to second s.66A offence - offer to plead guilty to second offence rejected by Crown
38.	O (61 at sentence) [2005] NSWCCA 327	s.66A 2 x s.61M(2) s.66A Sched: Agg indecent assault	VG PG	3y NPP 1y 18m NPP 12m 2y 9m NPP 1y <u>Total:</u> 4y NPP 2y	Crown AA FT 2y 6m FT 2y 3y NPP 6y <u>Total:</u> 5y NPP 2y 6m		Digitally penetrated 8y granddaughter during cuddle in bed – digitally penetrated same complainant on a bus when complainant 5-6y - touched and massaged 9y male's penis inside and outside clothes on two occasions while complainant sleeping in same bed as offender and wife – squeezed vaginal area outside clothes of male complainant's 6y sister while she was staying at offender's house – serious breach of trust Serious long-term injuries from work accident

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39.	Davies (22) [2005] NSWCCA 384	s.66A Sched: Agg ind ass	PG (30%)	10y NPP 7y 6m	AA 7y NPP 5y 3m	Nil	Assaulted partner's 7y daughter – well above mid-range but no penile penetration – 2 separate incidents – no explanation for offences
40.	EGC [2005] NSWCCA 392	s.66A 2 x s.66A s.61E(1A) Sched: s.61E(1A)	PG (25%)	5y NPP 3y 3m FT 4y FT 2y <u>Total:</u> 7y NPP 5y 3m	AA 5y NPP 2y 4y NPP 2y FT 2y <u>Total:</u> 7y NPP 4y	Nil relevant	1986-1988 – regular sexual abuse of step-daughter aged 7-10y – included digital penetration, cunnilingus and anal intercourse – touched step-son aged 4-6y on penis on several occasions Long delay in reporting conduct to police
41.	Fina'i (33) [2006] NSWCCA 134	2 x s.66A s.66B 2 x s.61M(2) s.61M(2) s.61M(1)	PG (15-20%)	FT 4y FT 3y FT 2y FT 9m 3y NPP 12m <u>Total:</u> 9y NPP 7y	AA FT 4y FT 3y FT 2y FT 9m 3y NPP 19m <u>Total:</u> 9y NPP 6y 9m		Sexual offences committed on step daughter aged 9-12y – first offences committed while mother in hospital - indecent touching, digital penetration, attempted penile penetration and forced touching of penis – 6m later entered complainant's bed – indecent touching of breasts and digital penetration – 3 years, after confessing offences to wife and minister, touched complainants breasts – threats made to keep secret Samoan

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42.	KJH (40) [2006] NSWCCA 189	s.66A s.66A s.61O(2) 2 x s.61O(2) s.61M(2) s.61M(2)	VG	10y NPP 6y FT 3y FT 9m FT 2y FT 18m FT 2y <u>Total:</u> 12y NPP 8y	AA 8y NPP 4y FT 3y FT 9m FT 2y FT 18m FT 2y <u>Total:</u> 10y NPP 6y	Minor	Sexually assaulted 8y daughter during contact visits at appellant's house – cunnilingus - asked complainant to lick penis – indecent licking over body – masturbated on front of complainant – breach of trust
43.	JAH (30 at sentence) [2006] NSWCCA 250	s.66A s.66C(1) s.61M(2) Sched: s.61M(2)	PG (25%)	10y NPP 7y FT 3y FT 18m <u>Total:</u> 11y NPP 8y	AA 7y 6m NPP 5y FT 3y FT 9m <u>Total:</u> 8y 3m NPP 5y 9m		Sexually assaulted 9-12y daughter over three years – touched complainant's vagina while she was sleeping in bed with offender and wife – penile intercourse with complainant in her bed – commenced regular intercourse, cunnilingus and occasional fellatio – touched complainant on breasts under clothes – breached apprehended violence order entering complainant's bedroom and having intercourse Tragic background with physical, emotional and sexual abuse
44.	AEL (12-13) (2007) 170 A Crim R 355 [2007] NSWCCA 97	s.66A Sched: 3 x Indecent assault on child	PG	5y NPP 18m	AA 2y 9m 14d NPP 1y 1m 2d (immediate release)		Sexually assaulted 8y brother and 5y sister – penetrated brother's anus with penis – placed penis against sister's anus Initially granted bond to complete residential program – unable to complete program due to funding – significant deterioration in behaviour – no subsequent sexual misconduct Significant behavioural problems throughout childhood including autistic type diagnosis

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45.	Dousha (late 20s) [2008] NSWCCA 263	s.66A 6 x s.61E(1A) s.66C(2)	PG (15%)	6y 6m NPP 3y 2y 6m NPP 1y 6m 2y 10m NPP 2y 4m <u>Total:</u> 10y 6m NPP 7y	AA 6y 6m NPP 1y 2y 6m NPP 1y 6m 2y 10m NPP 2y 4m <u>Total:</u> 10y 6m NPP 5y	Nil	1986-1989 – Lived in same residential unit as sisters – arranged to look after complainants after school and in holidays – complainants aged 5-10y – various indecent touching – digital penetration of each girl on different occasions – planned and deliberate course of conduct
46.	RWB (34-35 at offences - 54 at sentence) (2010) 202 A Crim R 209 [2010] NSWCCA 147	8 x s.66A s.61E(2) 3 x s.61E(1)	VG	7y 6m NPP 5y (concurrent fixed terms)	Crown AA Sentences restructured <u>Total:</u> 11y 4m NPP 8y 6m	minor	1990-1991 - Sexually assaulted niece aged 6-7y on nine separate occasions – digital penetration of anus and vagina, penile penetration of vagina, indecent touching, forced kissing of penis – detained complainant in locked bedroom during one assault
47.	Simpson (70 at sentence) [2012] NSWCCA 246	s.66A s.61M(2) s.61O(2)	PG (25%)	6y NPP 3y FT 9m FT 6m <u>Total:</u> 6y 9m NPP 3y 9m	AA 4y 4m NPP 3y FT 9m FT 6m <u>Total:</u> 4y 9m NPP 3y 5m	Minor sexual offences	(1997-1998) Close family friends – 8-9y complainant frequently stayed overnight with offender and wife – watched porn video and played with penis in presence of complainant – placed complainant's hand over unexposed penis – forced fellatio causing complainant to gag – not isolated offences – escalating seriousness – stopped offense when asked

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48.	DKL (50 at offence / 66 at sentence) [2013] NSWCCA 233	s.66A s.33B Sched: 3 x sexual offences	PG (12.5%)	7y NPP 4y 5y 2m NPP 3y <u>Total:</u> 8y NPP 5y	Crown AD (exercise of discretion)	subsequent child sexual offences	(1996) forced 7y daughter to fellate him in his bedroom – when observed by 13y son threatened him with loaded rifle – regularly came into bedroom of 11y daughter and touched her on breasts and rubbed vagina Crown appeal against degree of concurrence to existing sentence for similar offences – dismissed in exercise of discretion due to deterioration in physical and mental health
49.	Neville (25 at time of offences / 41 at sentence) [2018] NSWCCA 125	2 x s.66A s.66A 2 x s 91G(1)(a) s.91H(1)	VG	<u>Indicative</u> 8y 7y 3y 11m <u>Aggregate:</u> 13y NPP 8y 6m	Crown AA <u>Indicative</u> 11y 9y 6m 3y 11m <u>Aggregate:</u> 15y NPP 10y		(2001-2003) offences committed against daughter aged 3-4y – two acts of penile-anal intercourse with complainant being tied by her hands around a pole when acts performed – appalling sexual depravity; considerable physical cruelty – third act of fellatio – photographed complainant naked (2008) pornography offences committed against another daughter when aged 12-18m – further images found on computer of prepubescent girls subjected to anal intercourse.
50.	JA (14 at first offence – 39-41 later offences) [2021] NSWCCA 10	s.66A Use carriage service in offensive manner: s.474.17(1) Cth Code s.91H – possess child pornography	VG PG (10%) PG(10%)	4y 8m NPP 2y 8m 6m 18m NPP 12m <u>Total:</u> 6y NPP 4y	AA 1y 8m NPP 1y 3m 6m 18m NPP 12m <u>Total:</u> 3y NPP 2y 7m	Minor old offences	(1989-1990) forced penile intercourse on 9y sister on one occasion – not isolated incident but Crown could not satisfy doli incapax for earlier offending – offences below mid-range (2014) sent photos of exposed penis with offensive messages to sister by Facebook messenger – on arrest two years later found in possession of 51 child pornography images and a video – low range No remorse – risk of re-offending below average – mental health – first time in custody On appeal: sentence for s.66A manifestly excessive in view of age at time of offending

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51.	BM (20-25 at offences – 57 at sentence) [2023] NSWCCA 68	s.66A s.66A s.61D(1) Sched: s.61D(1) s.66A	PG (10%)	<u>Indicative:</u> 4y 4y 6m 2y 8m <u>Aggregate:</u> 7y NPP 4y 3m	AD	Nil prior or subsequent	(1985-1990) sexually assaulted sister in law aged 5-10y on multiple occasions – digital penetration – in bath, at pool and home – opportunistic but not isolated – significant breach of trust Subjected to physical and verbal abuse at school – sexually abused as a child – suffering significant mental health issues at sentence – remorse and good prospects of rehabilitation
52.	BJ [2023] NSWCCA 77	4 x s.66A 3 x s.61M(2)	VG	<u>Aggregate:</u> 14y NPP 10y	AD		(1999) Youth minister of church - assaulted female complainant / niece aged 8-9y – offences occurred at church premises when complainant attended after school - fellatio, digital-vaginal penetration – offences not isolated - exploitation of complainant, accompanied by physical force and intimidation; threatened violence if complainant spoke. No remorse or insight.

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