

## Possess Child Abuse Material Accessed Using Carriage Service s 474.22A (Cth) Criminal Code

s 474.22A Possess or control child abuse material obtained or accessed using a carriage service and in the form of data held in a computer or data storage device

**Commenced:** 21.9.2019

**Maximum penalty:** 15 years

**Note:** Mandatory minimum penalty applies to offence committed on or after 23.6.2020 where offender convicted previously of child sexual abuse offence:

**4 years head sentence:** s.16AAB (Cth) Crimes Act 2014

**May be reduced by up to 25% each for guilty plea and/or co-operation:** s.16AAC

**COPINE scale (Combating Paedophile Information Networks in Europe) / Australian National Victim Image Library (ANVIL) / Child Exploitation Tracking System (CETS).**

Category 1	images depicting erotic posing of children with no sexual activity
Category 2	images depicting sexual activity between children, or solo masturbation by a child
Category 3	images depicting non-penetrative sexual activity between adults and children
Category 4	images depicting penetrative sexual activity between children and adults.
Category 5	images depicting sadism or bestiality
Category 6	animated or virtual depictions of children engaged in sexual poses or activity

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Johnston (44) <a href="#">[2020] ACTSC 46</a> Mossop J	s.474.22A  2 x Use carriage service to transmit indecent communication to child under 16y: s.474.27A	PG	11m  6m 15d  Total: 14m 15d released after 4m for 12m		nil	Indecent conversation with 10y girl via Instagram over two days – requested picture of body – conversation continued with police officer – not explicit and limited but deliberate grooming – low gravity - found in possession of 291 child abuse images on hard drive, computer and phone – review of sample found images from each Cat – lower end of mid-range Good character – reasonable prospects of rehabilitation

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
2.	<b>Logue</b> (29) <a href="#">[2020] ACTSC 115</a> Elkiam J	s.474.22A  Access child abuse material using carriage service: s.474.22(1)  Prepare / plan to engage in sexual act with child outside Australia: s.272.8 / s.272.20	PG (25%)	12m  12m  6m  <u>Total:</u> 18m 28d released after 3m for 18m		Nil	Made contact with unknown persons in three countries using Tinder, phone application and internet – circumstances suggest would not have acted on request for sexual activity with young girl – below mid-range – videos of child abuse material found on phone – found in possession of videos of child abuse material, one in Cat 5 and seven in Cat 4 – mid range Prior good character – some insight and remorse – limited risk of re-offending – prospects of rehabilitation
3.	<b>Davison</b> (49) <a href="#">[2020] ACTSC 272</a> Eliakim J	s.474.22A	PG (25%)	9m released after 3m for 12m		Nil	827 files containing child abuse material found on computer: Cat 1: 496 images Cat 2: 8 videos Cat 3: 10 images Cat 4: 26 videos Cat 6: 280 images – 2 videos – 2 doc No evidence of distribution – period of possession unknown – mid range Serious mental health issues – no insight
4.	<b>Burch</b> (34) <a href="#">[2020] ACTSC 192</a> Murrell CJ	s.474.22A  Transmit child pornography using carriage service: s.474.19(1)	PG (25%)	2y GBB 100h CSO  12m ICO 200h CSO		nil	Five images of child abuse material found on computer Cat 1: 1 image Cat 2: 3 images Cat 4: 1 image Images not isolated but other possible material unrecoverable - conducted conversations with four people over messenger services discussing child abuse – each Cat 6 – below moderate seriousness Physical and mental health issues – became addicted to pornography as a juvenile

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5.	<b>Armstrong</b> (43) <a href="#">[2020] ACTSC 298</a> Robinson AJ	s.474.22A  Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)	PG (20%)	13m  6m  6m  <u>Total:</u> 18m released after 6m for 12m		nil	66 videos containing child abuse found on computer – accessed material over 15m Cat 1: 22 videos Cat 2: 11 videos Cat 3: 1 videos Cat 4: 31 videos Cat 5: 1 video Suffers social anxiety
6.	<b>AX (No.3)</b> (23) <a href="#">[2020] ACTSC 334</a> Burns J	s.474.22A  Access child abuse material using carriage service: s.474.22(1)   Failure to notify change of circumstances under child Sex Offenders legislation  Breach suspended sentences	PG (25%)	12m  12m  <u>Total:</u> 14m released after 6m for 2y  8m (suspended)  6m  <u>Total:</u> 20m released after 12m for 2y		Breached suspended sentence for possession child pornography committed as a juvenile	1,915 files containing child abuse material found on phone – admitted downloading and masturbating to material: Cat 1: 1,471 images – 3 videos Cat 2: 77 images - 8 videos Cat 3: 147 images – 30 videos Cat 4: 107 images - 59 videos Cat 5: 8 images – 1 video Cat 6: 3 images – 1 videos  No suggestion possessed for distribution – between low and mid-range seriousness - used five online accounts not reported under registration requirements Developed pornography addiction as a juvenile – Aboriginal male – drug abuse and mental health issues – sexually abused as a child – remorse – reasonable prospects of rehabilitation
7.	<b>Arnould</b> (50) <a href="#">[2020] ACTSC 345</a> Elkiam J	s.474.22A  Access child abuse material using carriage service: s.474.22(1)	PG (25%)	9m  9m  <u>Total:</u> 9m released after 3m fir 12m		Nil record	Accessed and downloaded 370 images and videos of child abuse material – deleted after viewing – found in possession of child abuse material in computer cache – most images in Cat 1 but some from Cat 4 – medium seriousness Prospects of rehabilitation – some insight

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8.	Ramsay-Feeney (34) <a href="#">[2021] ACTSC 5</a> Burns J  <a href="#">[2022] ACTSC 82</a> Eliakim J	s.474.22A  Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)  Access child abuse material using carriage service: s.474.22(1)  Breach ICO	PG (25%)    PG (25%)	9m 12d  9m 12d (concurrent – already served)  9m ICO  3y released to recognizance after 16m  9m (concurrent)			5,370 files containing child abuse material found on phone – accessed over two years: Cat 1: 4,385 images Cat 2: 364 images Cat 3: 138 images Cat 4: 260 images Cat 5: 21 images Cat 6: 202 images Voluntarily assisted police – mental illness requiring assistance for rehabilitation  <b>Mandatory Minimum Term: 4 years applied to s.474.22(1) offence</b> Accessed 148 images of child abuse – 95% animated or cartoon – lower end of range – less serious than earlier offence - breached ICO imposed in earlier case Co-operated with police – importance of recognizance to provide assistance in rehabilitation – mental illness issues – mandatory minimum reduced for guilty plea
9.	<a href="#">Cobcroft</a> <a href="#">[2021] ACTSC 15</a> Murrell CJ	s.474.22A  Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)	PG (25%)	15m  11m  11m  <u>Total:</u> 21m released after 5m for 2y		Nil	Accessed child abuse material using several electronic devices – accessed 147 files over 15m and 564 files over 12m – found in possession of 21,149 files (some duplicates) – all computer generated animations with no real children – very realistic and highly offensive with degraded text – no further distribution Remorse and insight – very good prospects of rehabilitation – bail conditions restricted role as primary carer for child

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10.	Appleby (45) <a href="#">[2021] ACTSC 55</a> Loukas-Karlsson J	2 x s.474.22A  Access child abuse material using carriage service: s.474.22(1)  15 x Capture visual data of another person: s.61B(1) (ACT) <i>Crimes Act</i>	PG (25%)	14m  14m  <u>Total</u> 2y 1m released after 10m for 2y  <u>Total:</u> 11m  <u>Total:</u> 2y 9m released after 1y 6m for 2y		nil	Found in possession of images and videos of child abuse material on phone and computer – several thousand videos and hundreds of images (although not all reviewed) – installed and used hidden camera to take photos of people on toilet and in shower of previous and current residence - pre-meditated offences Prospects of rehabilitation
11.	Cusak (42 at sentence) <a href="#">[2021] ACTSC 75</a> Eliakim J	s.474.22A  Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)	PG (25%)	9m  9m  9m  <u>Total:</u> 12m released after 2m for 18m		Nil	2,517 files accessed over 5y and kept in possession – well above mid-range Good character – remorse and insight – addressing rehabilitation – depression and suicide risk

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12.	<b>Barber</b> (67 at sentence) <a href="#">[2021] ACTSC 78</a> Murrell CJ	2 x Access child pornography using carriage service: s.474.19(1)  2 x Access child abuse material using carriage service: s.474.22(1)  s.474.22A  s.474.22A	PG (25%)	4m / 11m  11m / 9m  2y  9m  <u>Total:</u> 2y 6m released		nil	Offending during four distinct time periods: s.474.19: 2011 accessed 10 Cat 1 images s.474.19: 2019 s.474.22 / s.474.22A: early 2020 – 4,500 images found on 5 devices – most serious offence Cat 1: 2,226 images / 89 videos Cat 2: 495 images / 46 videos Cat 3: 571 images / 29 videos Cat 4: 700 images / 230 videos Cat 5: 219 images / 5 videos s.474.22 / s.474.22A: late 2020 and on bail for earlier offences – seven cat 1 files Isolated life – significant depression – impact of custody on mental health - remorse
13.	<b>Cox</b> (48) <a href="#">[2021] ACTSC 98</a> Burns ACJ	s.474.22A  2 x Access child pornography using carriage service: s.474.19(1)  Transmit child pornography using carriage service: s.474.19(1)	PG (25%)	12m  12m / 15m  6w  <u>Total:</u> 1y 7m 29d released after 5m for 2y		nil	Found in possession of 229 videos and 1 image of child abuse material on three devices – accessed 254 videos over 2 years and 1,349 items over later 4m period – transmitted 2 files from one email to another (both belonged to offender) - much overlap in material – mid range Assistance at time of arrest – reasonable prospects of rehabilitation - remorse
14.	<b>Monday (a pseudonym)</b> (59) <a href="#">[2021] ACTSC 99</a> Murrell CJ	s.474.22A	PG	2y GBB		nil	Attached two images of computer-generated child abuse material to email in preparation to send it to associate – unclear if email sent before suspended – very low objective seriousness – not isolated incident History of serious mental health issues – causally linked to offending – low risk of re-offending

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15.	Payne-Moore (32) <a href="#">[2021] ACTSC 125</a> Loukas-Karlsson J	s.474.22A  Access child abuse material using carriage service: s.474.22(1)	PG (20%)	12m  12m  <u>Total:</u> 15m released after 4m for 2y		nil	Used two computers to access 7 child abuse material files - stored 137 files on mobile phone and 2 computers over 15m Cat 1: 82 files Cat 2: 7 files Cat 3: 15 files Cat 4: 26 files Cat 5: 7 files Extra curial punishment taken into account
16.	Hurt (30) <a href="#">[2019] ACTSC 148</a> Mossop J  <a href="#">[2021] ACTSC 241</a> Mossop J  <a href="#">[2022] ACTCA 49</a>	Intentionally possess child exploitation material: s.65 (ACT) <i>Crimes Act</i>  Distribute child pornography using carriage service: s.474.19(1)  Transmit child abuse material using carriage service: s.474.22(1)  Access child abuse material using carriage service: s.474.22(1)  s.474.22A  Breach bond (s.65 offence)	PG (25%)   PG (25%)	15m suspended after 8m for 18m  2y recognisance  15m  15m  4y  <u>Total:</u> 4y 8m NPP 2y 1m  7m  <u>Total:</u> 5y 3m NPP 2y 8m	   Crown AA 15m  15m  4y 6m  <u>Total:</u> 4y 8m NPP 2y 2m  7m  <u>Total:</u> 5y 3m NPP 2y 9m	Nil relevant   Earlier offences – breached bond	Child exploitation material found on two mobile phones – thousands of images and hundreds of videos – mid-range – distribute offences involved sharing one image – low range Alcohol and cannabis abuse – delay in prosecution <b>Mandatory Minimum Term: 4 years (applied to s.474.22A offence only)</b> Within months of being released on bond commenced downloading child abuse material – transmitted to self 357 images and 7 videos from 20 websites – accessed further 104 images – possession offence encompassed material from s.474.22 offences and additional 25 images and 48 videos – mid range – intentional acts - material not held for distribution – committed in breach of bond – specific deterrence important Prospects of rehabilitation guarded On appeal: mandatory minimum term provisions erroneously applied only to 25 photos of s.474.22A offence – applied to all material

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17.	Mertell (68) <a href="#">[2022] ACTSC 37</a> McWilliam AJ  <a href="#">[2022] ACTCA 69</a>	7 x s.474.22A  2 x Access child abuse material using carriage service: s.474.22(1)	PG (25%)	9m  9m  <u>Total:</u> 6y 3m NPP 2y	AA 2m / 3m / 5m / 6m / 9m  3m / 8m  <u>Total:</u> 30m released after 12m for 12m	nil	Over 6 months possessed 513 child abuse material files (56 duplicate) across seven devices – 25% Cat 1 and 75% Cat 2 ASD diagnosis contributed to obsessive behaviour – socially isolated – prospects of rehabilitation guarded – poor insight On appeal: failure to give adequate weight to totality
18.	Minson <a href="#">[2022] ACTSC 46</a> Mossop J	Access child abuse material using carriage service: s.474.22  s.474.22A  s.474.22A  s.474.22A  2 x s.474.22A	PG (20%)	4y 5m  5y 7m  4y 5m  2y 5m  2y  <u>Total:</u> 7y 5m NPP 4y 5m		NSW - child pornography offence	<b>Mandatory Minimum Term: 4 years (applied to s.474.22 and 2 x s.474.22A offences)</b> Over 18 days used computer program to access 24 child abuse files – moderate sophistication and deliberate search - found in possession of 2,107 videos and 14,103 images files of child abuse material on five electronic devices – admitted accessing child abuse material over many years – ‘library’ of material but no evidence of further distribution – above mid-range Health issues of wife. Mandatory minimum provisions applied to three of six offences only

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19.	<b>Delzotto</b> <a href="#">[2022] NSWCCA 117</a>	s.474.22A  Access child abuse material using carriage service: s.474.22(1)  Sched: Access: s.474.19(1) Access: s.474.22(1)	PG (30%)	<u>Indicative:</u> 2y 9m  18m  <u>Aggregate:</u> 3y 3m NPP 2y 2m	Crown AA <u>Indicative</u> 4y 2m  1y  <u>Aggregate:</u> 4y 6m NPP 3y	Qld – aggravated indecent treatment child under 16y	<b>Mandatory Minimum Term: 4 years</b> 2,653 files containing child abuse material found on four devices – used carriage service to access 7 files located on laptop – additional offences involved accessing 33 files in 2019 and accessing website containing four written stories describing child abuse material – acted alone – no plans to distribute Major depressive disorder – co-operated with police – sexually abused as a child – isolated socially – extra-curial punishment – prospects of rehabilitation – remorse On appeal: sentence for s.474.22A offence manifestly inadequate – discussion about application of mandatory minimum provisions
20.	<b>Kember</b> (27-32) <a href="#">[2022] ACTSC 153</a> McCallum CJ  <a href="#">[2025] ACTCA 9</a>	2 x Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)  Use carriage service to procure: s.474.26(1)  Use carriage service to transmit indecent communication to child under 16: s.474.27A(1)  s.474.22A	PG	16m / 10m  8m  6m  3m  6m  <u>Total:</u> 3y released after 8m for 2y		nil	Requested and received naked photo from younger sister of partner when complainant aged 13-15y – requested and received photo of exposed breasts from 16y complainant met through cheerleading – significant impact on complainant – accessed Instagram account of younger sister of partner and saved 8 photos of complainant in swimmers – supplied alcohol to 15y complainant at school after receiving promise of oral sex – discussed sexual experience with younger sister of sexual partner over Snapchat – found in possession of material from above offences – mostly Cat 1 and one Cat 2 image – all at lower end of range or below mid-range – not isolated offences Difficult childhood – good prospects of rehabilitation – father suffering with Alzheimer's

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21.	Hutchinson (52 at sentence) <a href="#">[2022] VSCA 217</a>	s.474.22A  Access child pornography using carriage service: s.474.19(1)  Access child abuse material using carriage service: s.474.22(1)	PG	4y  3y  1y  <u>Total:</u> 5y NPP 3y  (Pre discount for guilty plea: 7y NPP 5y)	AD	nil	Found in possession of 317,003 files of child abuse material downloaded from internet over 7y Cat 1: 304,596 images / 906 videos Cat 2: 4,619 images / 410 videos Cat 3: 2,758 images / 87 videos Cat 4: 2,162 images / 676 videos Cat 5: 112 images / 24 videos Cat 6: 613 images / 12 videos Careful organisation of images electronically – objective seriousness very high Plea at first opportunity – good character – physical and mental health issues – good prospects rehabilitation – remorse – difficult childhood – family hardship On appeal: sentence not excessive in view of large number of images
22.	Ferns (27-28) <a href="#">[2022] QSC 220</a> Davis J	2 x s.474.22A  Transmit child abuse material using carriage service: s.474.22(1)  Access child abuse material using carriage service: s.474.22(1)  Solicit child abuse material using carriage service: s.474.22(1)  Agg s.474.22 – conduct involving 3 or more occasions with 2 or more people: s.474.24A(1)	PG	8y  10y  8y  4y  15y  <u>Total:</u> 15y NPP 8y		nil	<b>Mandatory Minimum Term: 7 years applies to s.474.24A offence</b> Transmitted child abuse material over one month to 17 users – included obscene text conversations – sourced child abuse material over one year and requested material from two different users – found in possession of 198 videos and 118 images – s.474.24A most serious offence – depraved conversations and transmission of material to two other users over two days Difficult childhood – early drug abuse – good work record

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23.	Horner (45-48) <a href="#">[2023] ACTSC 23</a> Baker J	s.474.22A  Access child pornography using carriage service: s.474.19(1)	PG (25%)	15m  12m  <u>Total:</u> 18m released immediately for 3y		Nil	Found in possession of three child abuse videos on computer – admitted accessing 50 child abuse files for purpose of reporting to eSafety Commissioner – limited quantity - lower end of range Exceptional circumstances permitting immediate release – clear link between childhood sexual abuse, mental illness and offending – remorse and insight – strong prospects of rehabilitation – importance of continued rehabilitation – prior good character – loss of job and position in society and separated from family
24.	Dean (20-21) <a href="#">[2023] ACTSC 98</a> Berman AJ	Transmit child pornography using carriage service: s.474.19(1)  s.474.22A  Access child abuse material using carriage service: s.474.22(1)  Intentionally possess child exploitation material: s.65 (ACT) <i>Crimes Act</i>	PG (25%)	6m released immediately 2y recog  22m ICO  6m released immediately 2y recog  6m suspended		Nil	Uploaded 20 images (transmit offence) – not transmitted to third person – images and videos found on phone: 56 videos 146 videos and 255 images 116 videos and 11 images Some overlap in offences – committed over 1y 6m – boredom at home and addiction to pornography led to seeking greater stimulation ASD, depression and difficult childhood contributed to social isolation – delay - immediately sought counselling – good rehabilitation – prior good character – remorse – unlikely to re-offend – effect of imprisonment on physical and mental health of wife (relationship subsequent to offending)

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25.	Henderson (37) <a href="#">[2023] ACTSC 110</a> Norrish AJ	Transmit child abuse material using carriage service: s.474.22(1)  s.474.22A	PG (25%)	11m released after 10m to 1y recog  1y 10m released after 4m to 2y recog  <u>Total:</u> 2y 4m released after 10m to 2y recog		Nil	Police advised by offender's female partner she was in possession of material received from offender – offender had transmitted 68 files to co-offender and text based conversations discussing rape of child – found in possession on three devices of 1,715 files: 424 videos and 1,291 images - material highly depraved – in possession for over 2y Early co-operation with police – difficult childhood including violence – mental health issues and self-harm risk – prior good character – importance of deterrence
26.	Lazarus <a href="#">[2023] NSWCCA 214</a>	2 x Access child pornography using carriage service: s.474.19(1)  4 x Cause child pornography to be transmitted through carriage service: s.474.19(1)  s.474.22A  4 x Use carriage service to transmit indecent communication to child under 16: s.474.27A(1)  Use carriage service to procure child under 16: s.474.26(1)  Access child abuse material using carriage service: s.474.22(1)  Sched: 2 x s.474.27A	PG (25%)	<u>Indicative:</u> 22m – 24m  15m – 27m  18m  15m – 22m  27m  24m  <u>Aggregate:</u> 6y 6m NPP 3y 9m	AD		Engaged in conduct over 8 years – engaged in sexual conversations online with multiple complainants aged or believed to be aged under 16y – sent to and procured from complainant's naked photos – sought to procure sexual activity on one occasion – misrepresented himself as school teacher to one complainant – found in possession of multiple Cat 1 and Cat 2 images – extended period of predatory and persistent criminal behaviour – objective seriousness assessed as between lower end of range and slightly above mid-range Remorse, insight and reasonable prospects of rehabilitation – co-operated with authorities – onerous custodial conditions On appeal: found in error in failure to consider impact of mental health issues on deterrence – no lesser sentence warranted

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27.	<b>Curle</b> (53) <a href="#">[2024] NSWCCA 117</a>	s.474.22A Access child abuse material using carriage service: s.474.22(1)  Transmit child abuse material using carriage service: s.474.22(1)	PG (25%)	20m  20m  24m  <u>Total:</u> 29m released after 21m for 18m recog	AD	Nil	Material found on desktop (619 videos and 40 images), phone (60 images and 384 videos) and SD card (2 videos) – real children aged 2-13y predominantly female - included penetrative intercourse – downloaded 1,333 files over two weeks – transferred 114 files to 11 different recipients over 7 weeks Difficult childhood – receiving treatment for paraphilic disorder – good character – remorse and growing insight – low risk of re-offending – good prospects of rehabilitation On appeal - no error in application of s.19AC and s.16A(2AAA) – not manifestly excessive
28.	<b>Woods</b> (27) <a href="#">[2024] NSWCCA 186</a>	Use carriage service to solicit child abuse material: s.474.22(1)  s.474.22A   Fail to comply with reporting obligations: s 17(1) <i>Child Protection (Offenders Registration) Act 2000</i> (NSW)	PG (25%)	<u>Indicative:</u> 3y  3y  <u>Aggregate:</u> 4y NPP 2y 6m  12m  <u>Total:</u> 5y NPP 3y 5m	AD	Prior child abuse offences – offences committed while on bail for failure to comply with reporting conditions	Met 15y male victim through sister - failed to comply with obligations to report details of a child with whom he had contact, including exchanging contact details with child and attempting to befriend child – requested 'dick pic' from victim and asked victim if he wanted to see offender's dick – police found 80 images and two videos depicting category 1 child abuse material, and seven images depicting category 2 child abuse material on offender's mobile device History of sexual abuse as a child, teenager and young adult – heavy substance abuse – physical and mental health issues

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29.	<b>McGregor</b> (53) <a href="#">[2024] NSWCCA 200</a>	Persistent sexual abuse of child outside Australia: s.272.11  Use carriage service to transmit child abuse material to self: s.474.22(1)  s.474.22A  Intent to procure child sexual activity outside Australia: s.272.14(1)  Sched: Use carriage service to transmit indecent communication to child: s.474.27A(1)	PG (30%)	<u>Indicative</u> 5y 10m  2y 9m  4y 2m 4y 10m  <u>Aggregate</u> 11y 6m NPP 8y	AA <u>Indicative</u> 5y 7m  2y 9m  4y 4y 6m  <u>Aggregate</u> 10y 9m NPP 7y 6m		Facts not stated. Offences over 12-18m period.  CCA: Error in application of s.16AAC Mandatory minimum penalty
30.	<b>Crowder</b> (33) <a href="#">[2024] VSCA 211</a>	s.474.22A  Access child abuse material using carriage service: s.474.22(1)	PG	20m  20m  <u>Total:</u> 26m Released after 12m for 3y recog  (pre discount for plea: 4y 4m NPP 2y 4m)	AD	Nil	Found in possession of 4,072 unique child abuse images on five devices downloaded over four weeks – 3,826 images and 246 videos – most animations but some depicted real children including sexual penetration and infants under 1 year – deliberately accessed material including using dark web – towards more serious end of spectrum Legal practitioner – born overseas – prior good character – genuine remorse – significant rehabilitation – impact of custody on mental health On appeal: no error in finding only slight reduction in moral culpability for mental health issues caused by abusive sexual relationship with older male who introduced offender to child abuse material and substance abuse five years previously – sentence not manifestly excessive

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31.	Cooper (66) <a href="#">[2024] ACTSC 235</a> Mossop J	s.474.22A Access child abuse material using carriage service: s.474.22(1) Access child abuse material using carriage service: s.474.22(1) Access child pornography using carriage service: s.474.19(1) Make available child pornography using carriage service: s.474.19(1) Solicit child abuse material using carriage service: s.474.22(1) Intentionally possess child exploitation material: s.65 (ACT) <i>Crimes Act</i> Fail to report under s.58A <i>Crimes (Child Sex Offenders) Act</i> (ACT) Breach of bond	PG (30%)	5y 7m 2y 9m 4y 11m 2y 9m 4m 2y 9m 21m 14m 18m  <u>Total:</u> 9y 8m 2d NPP 5y 7m		Record for child pornography offences	<b>Mandatory Minimum Term: 4 years</b> Found in possession of over 280,000 files continuing child abuse material – 76,007 unique – 1250 individual children – some files contain very serious sexual conduct – volume and collection of files demonstrate high degree of planning and organisation – personal use and some limited distribution – well above mid-range – accessed and downloaded material over six years – through peer to peer program provided and keys to access child abuse material and solicited videos – degree of sophistication – failed to report user names as required under reporting conditions Breach of bond for previous offences – causal relationship between ASD and offending – social isolation and obsessional interests - diagnosed with paedophilic disorder – made substantial admissions to police – prospects of rehabilitation guarded
32.	Bolton (49) <a href="#">[2024] ACTSC 314</a> McWilliam J	s.474.22A Access child abuse material using carriage service: s.474.22(1)	PG (20%)	18m 15m  <u>Total:</u> 1y 11m Released to recog after 7 weeks		Nil	Found in possession of 536 files – 33 images and 503 videos - depicting actual children, some very young – downloaded 79 files to laptop over four months – duplication of files from Count 1 – personal use – degree of planning – below medium level Prior good character (although limited weight for these offences) – stroke caused significant restriction in movement and disabilities – severe depression

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
33.	Meers (35-41 at offences; 42 at sentence) <a href="#">[2025] NSWCCA 27</a>	s.474.22A(1)  Transmit child abuse material using carriage service: s.474.22(1)  Made available child abuse material using carriage service: s.474.22(1)  Solicit child abuse material using carriage service: s.474.22(1)  Cause to be transmitted child abuse material using carriage service s.474.22(1)  4 x Produce child abuse material: s.91H(2) (NSW) <i>Crimes Act</i>	PG	<u>Indicative</u> 5y  4y  3y 2m  3y  4y  <u>Aggregate</u> 6y 6m NPP 3y 7m  <u>Aggregate State Offences:</u> 6y NPP 3y 4m  <u>Total</u> 9y 10m NPP 6y 10m	AA Sentences not varied, but made partially concurrent.	Nil	Chat conversations via "Telegram" messaging application with seven separate users – transmitted, solicited child abuse material - made available child abuse material by links to other sites - real children depicted, some 2yrs old - high degree of depravity - videos depicting female children forced to perform acts upon themselves or adults; adults engaging in indecent or sexual assaults (featuring rough penile-vaginal or penile-anal sexual intercourse) upon female children - 6,328 video files and 66,236 picture files. Remorse CCA: By wholly accumulating federal sentence on NPP for state offences, total effective sentence manifestly excessive.

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
34.	Hulsman (50) <a href="#">[2025] VSCA 63</a>	Access child abuse material using carriage service: s.474.22(1)  Transmit and cause to be transmitted child abuse material using carriage service: s.474.22(1)  s.474.22A	PG	3y 6m  4y 2m  4y 2m  <u>Total:</u> 6y NPP 3y 9m	AD	Record for similar although less serious offences – offences committed while subject to CCO and sex offenders reporting obligations	<b>Mandatory Minimum Term: 4 years</b> Viewed video of child abuse material during Zoom meeting – during 12 chats on Messenger transmitted or received child abuse videos – found in possession of 573 unique child abuse files – offences committed over three months – included depiction of penetrative and degrading activity – mid-range seriousness Plea entered at earliest opportunity – co-operated in providing passwords – remorse – difficult childhood, mental health issues and early substance abuse – some reduction in moral culpability – significant risk of re-offending – need for significant rehabilitation assistance
35.	Homem (58) <a href="#">[2025] ACTSC 343</a> McCallum CJ	Possess child exploitation material: s.65 (ACT) <i>Crimes Act</i>  s.474.22A(1)	PG (approx 15%)	10m  25m  <u>Total:</u> 2y 7m released to recog after 2y		Nil	Found in possession of 3,902 child abuse files – rolled up charges Physical and mental health issues impacting custodial conditions – no remorse – importance of general and specific deterrence Noted at [34] – changes to Cth legislation made plain objective seriousness of offences of this nature

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
36.	Cairncross (20-25) <a href="#">[2025] VSCA 117</a>	<p>Cause child pornography to be transmitted using carriage service: s.474.19(1)</p> <p>3 x Use carriage service to solicit child abuse material: s.474.22(1)</p> <p>4 x Use carriage service to cause to be transmitted child abuse material: s.474.22(1)</p> <p>2 x Use carriage service to procure child under 16y for sexual activity: s.474.26(1)</p> <p>s.474.22A</p> <p>Sched: One offence</p>	PG	<p>3m</p> <p>3m, 8m, 9m</p> <p>5m, 6m, 8m, 2y</p> <p>6m, 12m</p> <p>3m</p> <p><u>Total:</u> 3y 10m NPP 2y 3m</p> <p>(pre discount for plea: 5y 6m NPP 3y 3m)</p>	AD	Nil	<p>Over four years contacted 10 unknown females aged 14-17y via Snapchat – exchanged messages – requested, and in many cases received, child abuse photos of victims in exchanged for money – no threats – unsophisticated but premeditated, predatory and persistent – one victim mentally unwell – execution of search warrant found offender in possession of 208 unique child abuse files – two offences committed after search warrant</p> <p>Genuine remorse – early guilty plea</p> <p>On appeal: at [54]-[78] – consideration of presumption of harm where victims aged 16-17y</p>

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
37.	Cullinan-Smayle (32) <a href="#">[2025] VSCA 133</a>	s.474.22A  17 x Use carriage service to transmit child abuse material: s.474.22(1)  2 x Use carriage service to cause to be transmitted child abuse material: s.474.22(1)  2 x Use carriage service to procure child under 16y for sexual activity - s.474.26(1)  Cause child pornography to be transmitted using carriage service: s.474.19(1)	PG (25%)	6y  1y 6m – 6y  2y 6m 5y 6m  3y 6m 4y  4y  <u>Total:</u> 10y NPP 6y 7m	AA 6y  1y – 6y (sentences for 12 offences reduced)  2y 6m 5y 6m  3y 6m 4y  4y  <u>Total:</u> 9y NPP 6y  (pre discount for plea: 11y NPP 8y 3m)	nil	Offences committed with intimate partner over several years – exchanged messages with two male youths on social media soliciting photos and sexual activity – sent child abuse material to one victim – exchanged child abuse material with co-offender including videos, images and written descriptions – exchanged photos of known children and discussed perverted sexual desires with co-offender – found in possession of 3,019 images and videos – instigator of many offences Discount included harsh custodial conditions during covid On appeal: parity after successful appeal by co-offender

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