

Assault With Intent to Have Sexual Intercourse

Victim Aged 16 Years or Older

s.61K(b) (NSW) Crimes Act

61K with intent to have sexual intercourse with another person:

(a) intentionally or recklessly inflicts actual bodily harm on that person or a third person who is present or nearby, or

(b) threatens to inflict actual bodily harm on that person or a third person who is present or nearby by means of an offensive weapon or instrument

Maximum Penalty: 20 years

Commenced: 17.3.1991

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Tsokos (17) NSWCCA 19.6.1995	3 x s.61K(b) s.94 Assault w/l rob Sched: 3 x assault Possess pistol	PG	3y Recognizance	Crown AA MT 1y AT 3m FT 3m (concurrent)	Assault, stealing – breached bail - previous custody.	Approached 16y male at railway station and demanded money – threatened to kill – pointed toy gun at – forced complainant to bushes and made unsuccessful attempts at anal and oral penetration – kicked complainant to head. Alcohol and drug related – addiction – evidence of rehabilitation
2.	O'Donnell (21) NSWCCA 12.5.1997	s.61K(b) Sched: s.61K(b) 2 drug offences	PG	MT 2y 11m AT 12m	AD	nil	Asked female to his home for consensual sex for agreed amount of money – threatened complainant with knife at his home – heavily intoxicated Prior good character – partner with psychiatric condition.
3.	Capar (26) (2002) 132 A Crim R 160 (2002) NSWCCA 285	s.61K(b)	PG (20%)	2y suspended	Crown AD	Driving offences – breached bond – no previous custody.	Attended brothel – threatened female with knife – demanded oral intercourse – threatened to kill after sex - threatened to tie complainant up with plastic tie – complainant pleaded and managed to escape Suffering psychiatric disorder – anxiety with depression – suicidal thoughts – attempted suicide. Offence required full-time imprisonment but for subjective circumstances.

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
4.	Webster (49) [2006] NSWCCA 346	s.61K(b) AR s.61L	PG (not stated)	8y NPP 6y FT 4y 6m FT 2y 3m <u>Total:</u> 11y NPP 9y	AA only to set aside parole order	Lengthy and serious. Aggravated sexual assault, assault. On parole.	Followed female off train at night – held knife to complainant’s throat demanding wallet – dragged complainant into laneway – forced complainant to stroke penis – with knife at complainant’s throat demanded oral intercourse – complainant managed to escape.
5.	Sun [2011] NSWCCA 99	s.61K(b) Sched: Custody knife	PG (15%)	6y NPP 4y	AA 4y 3m NPP 2y 6m	Nil	Followed female late at night at train station – made sexual suggestions – threatened her with knife at throat Chinese background – highly intelligent - rehabilitation – prior good character – remorse - unusual and irrational motive of wanting to shame his mother

Last updated – Dec 2018