Aggravated Enter and Commit Serious Indictable Offence

s.111(2) (NSW) *Crimes Act*

s.111 (1) enter dwelling-house with intent to commit serious indictable offence

(2) commit offence under subsection (1) in circumstances of aggravation

s.105A (1) circumstances of aggravation means: **armed with an offensive weapon, or instrument,**
in the company of another person or persons,
uses corporal violence on any person,
intentionally or recklessly inflicts actual bodily harm on any person,
deprives any person of his or her liberty,
knows that there is a person, or persons, in the dwelling house or building

Maximum Penalty: 14 years

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**Warren** NSWCCA 22.7.1996	s.111(2) (steal)	Armed with offensive weapon	PG	4y NPP 2y 6m	AD	Priors for similar offences	Entered home and threatened elderly female occupant – took bank book and arranged to meet next day – took complainant's name and phone number
2.	**Silva** (34) [2002] NSWCCA 332	s.111(2) (AOABH) 2 x AOABH	In company	PG	3y NPP 12m (concurrent sentences)	AD	Drugs, property	Broke into home of elderly pensioner – assaulted him and two visitors – took $200 from victim's bedroom. Drug addiction.
3.	**Kollas** [2002] NSWCCA 491	s.111(2) (affray)	Armed with offensive weapon	PG	4y NPP 2y 4m	Crown AA 5y 6m NPP 3y 3m	Breached bail for violence offence	One of group of men who forced entry into flat – struck two male occupants with steel pole – flat occupied at time with children – seeking drugs

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	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
4.	**Labrooy** [2004] NSWCCA 371	s.111(2) (AOABH) Mal Wound	Knowing person present	PG (20%)	4y NPP 2y 3y NPP 12m Total 5y NPP 3y	AA 3y NPP 18m 3y NPP 12m Total 4y NPP 2y	Nil	Broke into unit where ex-girlfriend was staying – attempted to choke male victim with whom ex-girlfriend was sleeping – during struggle bit victim's ear tearing away part of it. Prior good character – depression.
5.	**Mitropoulos** (31) [2004] NSWCCA 402	s.111(2) (AOABH)	Armed with offensive weapon	VG	5y NPP 3y	AD	Assault	Went to ex-girlfriend's house – Hit male victim with closed fist and cricket bat.
6.	**Murphy** (49) [2005] NSWCCA 182	s.111(2) (AOABH)	Corporal violence	PG (over 10% on appeal)	4y 6m NPP 3y 3m	AA 2y 8m NPP 2y	Lengthy including robbery, assault	Entered neighbours' home believing they had taken his watch – Struck male victim causing injury to mouth, left eye and forehead.
7.	**Little** (28) [2009] NSWCCA 113	s.111(2) (intimidation) s.86(1)(b) s.61		PG	2y 6m NPP 12m (other sentences concurrent)	AD		Entered ex-girlfriend's premises – slapped her across face - bound her hands with cable ties – attempted to tape mouth – left after cutting ties
8.	**Ruttley** (19) [2010] NSWCCA 118	s.111(2) (AOABH) AOABH	In company	PG (25%)	4y NPP 2y 6m FT 2y (concurrent)	AA 3y NPP 16m FT 16m (concurrent)	Drive unlicenced	With juvenile cousin entered house of 35y intellectually disabled man – dragged him out of bed and kicked and punched him – house ransacked Voluntarily reported assault to police – Aboriginal male with childhood marked by poverty – low intelligence – parity to sentence imposed on younger offender charged with more serious offence
9.	**Dyer** [24] [2011] NSWCCA 185	s.111(2) (AOABH) Sched: AOABH	In company	PG (10%)	4y 6m NPP 3y 4m	AD	Lengthy record in including assault on victim	Threatened victim when sentenced to 6m imprisonment for assault on victim – 2 weeks after release entered home of victim with two others – assaulted sleeping victim with golf club – punched and kicked victim

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
10.	**Kennedy** [2013] NSWCCA 19	s.111(2) (intimidation) Rob in Co s.166 Certificate: Intimidate	In company	PG (25%)	3y NPP 20m FT 12m FT 15m (concurrent)	AA 2y 9m NPP 18m FT 12m FT 15m (concurrent)	Record	Victims answered door to two men – occupants threatened with knife and scissors over extended period – forced to hand over money – co-offender gave back $50 when asked by offender Deprived childhood – very low intelligence – mental disorders
11.	**Pleace** [2017] NSWCCA 112	s.111(2) (intimidation) AOABH		PG	Indicative 4y 6m 18m Aggregate 5y NPP 3y	AD	Substantial	Forced entry into home of victim's girlfriend – threatened male victim with crow bar and struck him on arm – victim was client of offender's girlfriend who was a prostitute Suffering psychosis secondary to schizophrenia
12.	**Dixon** (44) [2019] NSWCCA 85	s.111(2) (larceny) Sched: Intimidate	Knowing person present	PG (10%)	4y 11m NPP 3y 2m	AA 4y NPP 2y 6m	lengthy – breached parole	Entered garage through half opened roller door armed with metal tyre socket – left almost immediately followed by male victim armed with baseball bat – walked off down street once disarmed by victim and neighbour – between bottom and mid-range Aboriginal male with distressing background – instability – physical and sexual abuse – poverty – foster care- drug abuse – no work experience – much time in custody – risk of institutionalisation
13.	**Bolin** [2020] NSWCCA 332	s.111(2) (intimidate) Intimidation Contravene AVO		PG (25%)	Indicative: 3y 2y 3m 6m Aggregate: 4y 6m NPP 2y 3m	AA Indicative: 3y 2y 3m 6m Aggregate: 3y 3m NPP 2y	Breached bail - record for similar offences	After argument on phone attended home of ex-partner – yelled and spat at victim and made threatening and degrading comments – victim cut hair and arm in response – next morning abuse continued and victim stabbed herself in head to stop intimidation – intimidation offence above mid-range – other offences between mid and low range Dysfunctional childhood – early drug use – dipolar disorder – genuine remorse – prospects of rehabilitation quite good

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
14.	**Parker** (37) [2021] NSWCCA 102	s.111(2) Assault: s.61 Pervert course of justice: s.319 s.166 Certificate: Contravene ADVO		PG (10%; 25%)	Indicative: 2y 3m 10m 2y 7m 10m Aggregate: 3y 7m NPP 2y 5m	AD	Lengthy. Numerous breach ADVO, domestic violence. On bail.	Offences committed in context of domestic violence - entered home of ex-girlfriend partner – physical altercation with her male friend – wrote to victim asking to keep her male friend from attending court; called victim asking she not attend court. Just below mid-range of objective seriousness. Substance use disorders - borderline personality traits – special circumstances: need for supervision for substance abuse.
15.	**Nguyen** (mid-20s) [2021] NSWCCA 118	s.111(2) Steal from dwelling: s.48 Intimidate s.166 Certificate: 2 x Dishonestly obtain by deception Sched: 3 offences	Knowing person present		Indicative 3y 9m 1y 6m 1y 1y 6m Aggregate: 7y NPP 4y 11m	AD	Domestic violence against same victim, property damage, larceny	Offences in context of domestic violence relationship – separated from partner (victim) who was pregnant with offender's child – broke into victim's home – damaged and took items - in text messages twice threatened to kill victim, threatened with violent sexual assault and removal of her newborn baby. Offences not isolated, pre-meditated. Substance abuse – ADHD.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
16.	**Vinaisi** [2021] NSWCCA 134	s.111(2) Sched: Steal property from dwelling Obtain financial adv by deception	Three people involved	PG (5%)	2y 10m NPP 1y 9m	AD	Lengthy – dishonesty and violence – breached parole	Entered home through front door with two co-offender in early hours of morning – ransacked rooms – when sleeping male occupant awoke threatened by one of the offenders – in house for 15 mins – property stolen – stolen key card used to make purchases – just below mid-level – not sophisticated but some degree of planning *Bugmy* hardship – poor education – early drug use – risk of institutionalisation – limited cognition – poor prospects of rehabilitation and not re-offending On appeal rejected argument that SJ should have considered pattern of recidivism and increased proportion of parole period
17.	**Saraya** [2021] NSWCCA 139	s.111(2) AOABH: s.59 Sched: 2 offences	Armed with offensive weapon	PG (25%)	Indicative 6y 2y 3m Aggregate 7y NPP 5y 3m	AD	Drug supply, armed robbery	With co-offender – both armed with knives entered home – threatened female occupants with knives – punched male victim – took handbag containing ATM card – withdrew cash form ATM. Impulsive aggression, untreated ADHD- early substance abuse.
18.	**Nykolyn** [2021] NSWCCA 312	s.111(2) Larceny: s.117		PG	Indicative 2y 9m 15m Aggregate 3y 1m NPP 2y 3m	AD		Entered unit and took various items; handbag and contents; laptop computer; mobile phone.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
19.	**Murdoch** (20) [2023] NSWSC 786 Wright J Co-offenders: DJD (murder) SHILLINGSWORTH DPD EE	s.11(2)	In company	VG (see facts)	FT 3y		Limited	Acquitted of murder and armed robbery – convicted of s.111(2) as statutory alternative to s.111(3) Violent home invasion with four co-offenders – co-offender armed with knife - faces partially covered or disguised with mask – male occupant fatally stabbed – not established whether or not offender involved in attack – female occupant robbed and second female occupant threatened - no real evidence of planning attributable to offender – offence occurred in home of victim – lower end of mid-range Despite some incidents in custody some positive elements – good prospects rehabilitation – some remorse - youth
20.	**DJD** (17) [2023] NSWSC 1049 Co-offenders: MURDOCH (murder) SHILLINGSWORTH DPD EE	s.111(2)	In company	VG (see facts)	4y 10m NPP 2y 10m		Drug supply and possession, AOABH (DV), stalk/ intimidate, reckless wounding, riot, damage property, assault police.	Acquitted of murder and armed robbery – convicted of s.111(2) as statutory alternative to s.111(3) With four co-offenders, violent home invasion – co-offender armed with knife - faces partially covered or disguised with mask – male victim stabbed to death / killed, not known whether or not offender physically involved in attack (co-offenders sentenced for murder) – female victim robbed – no real evidence of planning attributable to offender. Youth - deprived and difficult upbringing - significant mental health issues, schizophrenic – continued substance use - lack of remorse – prospects of rehabilitation – parity – totality – additional offences committed in custody – special circumstances.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE	APPEAL	RECORD	FACTS
21.	**Morris** [2023] NSWCCA 228	s.111(2) s.59(2)	Knowing person present	PG (10%)	Indicative: 2y 12m Aggregate: 2y 4m NPP 18m	Indicative: 18m 9m Aggregate: 2y reduced by time served - 1y 2w by way of Intensive Corrections Order (ICO)		With co-offender, entered male victim's home – demanded to know where "stash" was – threatened to stab victim – victim went to get phone to call police – offender screamed at victim, hit twice, once to forehead and back of head – offender and victim previously friends, relationship broke down – drugs and alcohol - unprovoked violence. CCA: SJ erred in finding no evidence to support *Bugmy* background of deprivation - rehabilitation prospects improved.
22.	**Shaw** (44) [2024] NSWCCA 241	s.111(2) Steal property dwelling: s.148 2 x Larceny: s.117		PG (25%)	Indicative 2y 3m 1y 1m 9m (each) Aggregate: 2y 6m NPP 1y 6m	AA Indicative 2y 1y 9m (each) Aggregate 2y 3m NPP 1y 3m		Entered apartment – victim asleep, woke to find offender attempting to unplug laptop – ran away with number of items – laptop and other electronics, cash – premeditated. Major depressive disorder, PTSD - mental health conditions contributed to offending – childhood disadvantage - application of *Bugmy* - reasonable prospects rehabilitation - unlikely to reoffend. CCA: Failure by applicant's legal representatives to place before sentencing judge important evidence relevant to subjective case of childhood sexual abuse.

Last updated: Dec 2024