

## Break and Enter and Commit Serious Indictable Offence

Not Stealing / Larceny

s.112(1) (NSW) Crimes Act

s.112 (1) (a) break and enter dwelling-house or building and commit serious indictable offence

(b) commit serious indictable offence in dwelling-house or building and break out

**Maximum Penalty:** 14 years

	NAME (age if known)	OFFENCE	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	SUMMARY OF RECORD	INVOLVEMENT & SUMMARY
1.	<b>Taylor</b> (21) NSWCCA 27.4.1998	BE commit AOABH  Sched: Agg cruelty to animal	PG	MT 2m AT 22m	Crown AD (inadequate but dismissed in exercise of discretion)	Assault – thefts - burglary	Forced way into flat of 62y woman – Pushed victim - Flung victim's dog killing animal Tragic background – Aboriginal male - mental illness.
2.	<b>Rapley</b> (22) NSWCCA 27.5.1988	BE commit malicious damage	PG	MT 12m AT 8m	AD	Nil relevant	Parents advised they were to divorce as mother had fallen in love with another man - offender upset - went to other man's home causing \$45,000 damage - surrendered to police Suffering abnormality of mind
3.	<b>Hoskins</b> (20) <a href="#">[2000] NSWCCA 415</a>	BE commit AOABH  Sched: Carried in conveyance	PG	MT 3y AT 3y	AA 5y NPP 2y 3m	lengthy	Went to home of estranged partner – mother of offender's 3y son - punched victim asking for child's whereabouts Deprived background.
4.	<b>Fernando</b> (21) <a href="#">[2004] NSWCCA 147</a>	BE and commit act of indecency	PG (not quantified)	9y 6m NPP 7y 1m 16d	AD	Breached parole	Broke into home of 29y female and started touching her in bed – struggle resulted in injuries to victim's back from broken glass Aboriginal male with deprived childhood
5.	<b>Banditt</b> (2004) 151 A Crim R 215 <a href="#">[2004] NSWCCA 208</a>	BE and commit sexual assault	VG	5y NPP 3y	AD	One prior for different offence	Broke into home of cousin at night – forced intercourse in bed Out of character

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6.	<b>Turner</b> <a href="#">[2006] NSWCCA 166</a>	BE and AOABH	PG (25%)	2y NPP 18m	AD	On bail and bond - possess weapon - destroy property - resist police	Broke into home of female acquaintance – during struggle bit victim around mouth and on face. Alcohol and cannabis abuse - mental illness.
7.	<b>Croaker</b> (2008) 190 A Crim R 15 <a href="#">[2008] NSWCCA 232</a>	BE and AOABH  Sched: 2 x mal damage	PG (25%)	3y NPP 2y 3m	AA 2y 8m NPP 2y	Numerous assaults	Broke into home of estranged partner – pushed victim – threw chair striking victim SJ erred in taking into account use of weapon (chair) as aggravating factor.
8.	<b>King</b> (23) <a href="#">[2011] NSWCCA 46</a>	BE malicious damage by fire	PG (10%)	6y 3m 18d NPP 3y	AD	Breached bond	Broke into business premises at night and started fire – disgruntled employee - \$1.6m damage Physically and emotionally abusive childhood
9.	<b>Marshall</b> <a href="#">[2013] NSWCCA 16</a>	BE and Intimidate  AOABH  Sched: Enter vehicle without consent	PG	3y NPP 18m  Total: 3y 4m NPP 22m	AD	Lengthy – breached parole	Found by resident in laundry in early hours of morning – assaulted resident and threatened to use a syringe and spray can
10.	<b>Martin</b> <a href="#">[2013] NSWCCA 24</a>	BE and AOABH	PG (25%)	1y 3m NPP 6m	AA GBB 6 months	Nil	Female - punched female in face after entering boyfriend's house – two year tumultuous relationship with boyfriend - on night of incident offender mistreated by boyfriend – emotional response to earlier events Very strong subjective case – youth - good character – little likelihood of reoffending - offence out of character – sentence manifestly excessive.
11.	<b>Cameron</b> (53) <a href="#">[2013] NSWCCA 224</a>	BE and destroy property with fire	PG (25%)	4y 10m NPP 3y	AD	Minor	After confrontation with brother broke into brother's rural home and destroyed property with fire – planning – house and contents destroyed Depressed and intoxicated – immediate confession to police – made 000 call - good prospects of rehabilitation

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12.	<b>Martinez</b> (28) <a href="#">[2015] NSWCCA 5</a>	BE and destroy property with fire  Sched: Obtain property by deception	PG (39% - plea and assist.)	3y 10m NPP 2y	AD	Damaging property offence	Organised and assisted two men to break into business premises and set fire - \$150,000 damage – considerable planning – paid \$8,000
13.	<b>Marshall</b> (42) <a href="#">[2024] NSWCCA 194</a>	BE and damage property	PG (25%)	2y 3m NPP 1y 5m	AA FT 15m	Appalling record for property offences – breached parole	Broke into private residence by breaking laundry window – caused minor scratch damage to internal door – did not intend to commit offence when entered house – unaware persons present – did not go beyond laundry – entered house seeking shelter – spontaneous and unplanned – relevance of minor nature of indictable offence Difficult childhood – <i>Bugmy</i> applied – mental health issues On appeal: manifestly excessive

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