Break, Enter and Steal

Single Offence

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	FACTS
1.	**Dineen** NSW CCA 25.2.1998	BES Sched: 2 offences	PG	MT 2y 3m AT 2y	AD	Lengthy and appalling criminal record including similar offences	Broke into dwelling house in early hours of morning when occupants asleep. Young man recently become a father - remorse.
2.	**Karagiannis** (24) NSW CCA 27.5.1998	BES Sched: 2 x mal damage	PG	MT 18m AT 6m	AD	Extensive record including BES - offence committed while on recog, parole and bail	Broke into service station and stole money and cigarettes - involved with three co-offenders. Partial concurrence with existing sentence.
3.	**Appleby** [1999] NSWCCA 157	BES	PG	MT 12m AT 12m	AD	Many prior convictions	In company of four friends drove vehicle through front door of business and stole computers.
4.	**Tuatara** [1999] NSWCCA 242	BES	PG	MT 12m AT 18m	AD	Escapee at time of offence	Female escaped from prison and broke into premises by forcing open locked window. - stole $3,500 worth of property. Youth - sad and unsettled personal circumstances - aggravated by escape.
5.	**Douglas** (25) [1999] NSWCCA 345	BES	PG	MT 2y AT 2y	AA MT 15m AT 9m	Criminal record – no prior custody	Broke into house while occupants away with five co-offenders and stole $32,000 worth of property - property stored at offender's home. Father of five young children – Aboriginal male - assistance to police

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

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6.	**Elemes** [2000] NSWCCA 235	BES	VG	MT 2y 6m AT 2y 6m	AD	Prior record	Ram-raided motorcycle shop and stole three motor cycles Youth - first time in custody - some prospects of rehabilitation - difficult personal history – Aboriginal male
7.	**Lyons** (38) [2000] NSWCCA 337	BES	PG	MT 2y AT 8m	AD	On parole at time of offence - lengthy criminal record including AR and BES	Broke into home by forcing rear door and stole property valued at $5,500 – all property recovered. Long history of drug addiction and institutionalisation
8.	**McLennan** (38) [2000] NSWCCA 407	BES	VG	MT 1y AT 18m	AD	Large number of dishonesty offences committed around same time	Female - broke into flat previously occupied by friend by telling locksmith keys had been stolen. Embarked on criminal offending late in life after turbulent and abusive relationship.
9.	**Skornia** [2000] NSWCCA 422	BES	PG	MT 2y AT 2y	AD	Dishonesty - offences committed while on bail	$27,000 worth of property stolen – element of planning.
10.	**Radic** (25) (2001) 122 A Crim R 70 [2001] NSWCCA 174	BES	PG	3y 4m NPP 2y 6m	AA 3y NPP 1y 9m	Priors including BES - on bail pending appeal at time of offence	Broke into shed of residential property and stole electric drill – originally sentenced on basis stole jewellery as well. Health problems - drug addiction - strict protection.
11.	**Maher** (21) [2002] NSWCCA 100	BES	VG	4y NPP 3y (cumulative to existing sentence)	AA 4y NPP 2y 3m	Criminal record - on bond	Broke into Woolworths store with co-offenders. Disrupted childhood
12.	**Hassen** [2002] NSWCCA 25	BES	VG	4y NPP 3y	AD	Lengthy - similar matters – breached bond	Broke into home stealing $1000 worth of goods.
13.	**Richards** [30] [2002] NSWCCA 84	BES Sched: other offences	PG (25%)	3y NPP 2y (includes concurrent term for breach of suspended sentence)	AD	Serving suspended sentence for similar offence – subsequently breached bail – significant number of prior convictions for similar offences	Stole property from home of 77y female in retirement village Illness in family exceptional circumstances

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14.	**Proud** (28) [2002] NSWCCA 219	BES Sched: 4 x BES	PG (25%)	6y NPP 4y 6m	AD	Extensive record for dishonesty offences	Broke into home of 68y old female - stole $40,000 cash - stole further property worth $42,000 from other homes Difficult childhood -life downhill after separation from wife
15.	**Garvey** (18) (2003) 142 A Crim R 194 [2003] NSWCCA 226	BES	PG (25% on appeal)	4y NPP 2y	AA 3y NPP 15m	Prior convictions for similar offences – breached bail	Broke into warehouse and stole equipment valued at $25,000 – Fire started but extinguished by security guard Frequent user of marijuana since 13y – good character evidence – prospects of rehabilitation
16.	**Jackson** [2004] NSWCCA 110	BES	PG	18m (partially cumulative to another sentence)	AA Only to adjust commencement dates		Broke into workshop and stole property Suffering paranoid schizophrenia Commencement dates changed after successful conviction appeal for drug offence
17.	**Kay** [2004] NSWCCA 130	BES	PG	2y 9m NPP 1y 6m	AD	Prior convictions	Broke into shop and stole 10 digital cameras worth $19,300 – no property recovered – delay before involvement discovered through DNA – dealt with as part of course of criminal conduct already dealt with Evidence of rehabilitation
18.	**Niass** (36) [2004] NSWCCA 149	BES	VG	2y NPP 15m Suspended	Crown AD	Unusual criminal history – lengthy 10 year gap – breached CSO	Broke into factory and loaded bob-cat onto truck – well planned – supplied truck and metal ramps Disturbed background – delay – reasonable prospects of rehabilitation
19.	**Rose** (28) [2004] NSWCCA 326	BES Sched: 2 offences	PG	s 11 Deferral sentence	Crown AD	Lengthy – stealing, dishonesty – breached conditional liberty.	Broke into residential premises stealing various goods and sold for money. Drug addiction – commenced using drugs at age 14. 4 months pre-sentence custody and 8 months rehabilitation program.
20.	**Pitt** (31) [2004] NSWCCA 454	BES	PG	18m NPP 9m	AD	Minor	Female – broke into house with partner and stole $14,230 – intellectually dominant offender Aboriginal woman with violent childhood – sole carer of young child – absconded after arrest
21.	**Baleisuva** (22) [2004] NSWCCA 344	BES	PG (25%)	6y NPP 3y	AA 5y NPP 2y 6m	Includes AR – breached parole and bond	Stood look out while three co-offenders broke into commercial premises – drove off in stolen motor car – not involved in planning

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22.	**Castles** (28) (2005) 152 A Crim R 277 [2005] NSWCCA 79	BES Sched BES	PG (25% on appeal)	3y NPP 2y 3m	AA 2y 8m NPP 1y 8m	'Very extensive' - 6 BES offences	BES taking jewellery and electrical equipment – identified by DNA – no recollection of offence Harsh upbringing – left school early – sexually abused – drugs from 12 but has stopped using heroin – low IQ (71) - protective custody
23.	**Lawrence** [2005] NSWCCA 91	BES	PG (25%)	2y 3m NPP 18m	AD	Lengthy record	Broke into home and stole stereo – 74y occupant awoke and saw offender Aboriginal woman with violent and deprived background
24.	**Shorten** (42) [2005] NSWCCA 106	BES	PG	FT 3y	AD	Lengthy record for similar offences – breached parole	Broke into residential home and stole jewellery, cash and computer games Institutionalised – requested no non-parole period – delay
25.	**Mouzomenos** [2005] NSWCCA 203	BES	PG	2y NPP 15m	AD	Prior convictions – no custodial sentences	Forced entry into home of female acquaintance with co-offender and stole property
26.	**Gardner** (27) [2005] NSWCCA 383	BES	PG (25%)	2y NPP 12m	AD	Extensive record for dishonesty and property offences – breached conditional liberty	Female - broke into residential home and stole $15,000 worth of property Mental health problems – 5 children – some evidence of rehabilitation
27.	**Hoswell** (27) [2006] NSWCCA 70	BES	PG (25%)	2y 8m NPP 2y	AD	Lengthy	Broke into home unit and stole property Some evidence of rehabilitation and remorse
28.	**Grace** (33) [2006] NSWCCA 286	BES	PG	3y NPP 18m	AA 2y 6m NPP 1y 3m 15d	Lengthy – breached parole for similar offences	Broke into IT section of hospital with co-offender – lesser offender Disturbed background – drug abuse - parity
29.	**Pekbilimli** [2007] NSWCCA 101	BES Sched: BES	PG	5y NPP 2y 6m	AD	Breached parole for BES	Broke into church preschool and stole collection money
30.	**Dodds** (35) [2009] NSWCCA 191	BES	PG (15%)	4y 3m NPP 2y 1m	AD	Similar offences	Broke into house and stole property worth $40,000
31.	**Morrison** (31) (2009) 197 A Crim R 103 [2009] NSWCCA 211	BES	PG (25%)	3y 9m NPP 2y 3m	AA 3y 3m NPP 1y 11m	Similar offences – conditional liberty	Broke into residential house and stole property – property unrecovered – some degree of planning Some prospects of rehabilitation – deserted by family in Year 6

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32.	**Williams** (47) [2010] NSWCCA 15	BES	VG	5y NPP 3y 9m	AD	BES, assault, drug offences	Broke into home of artist and art restorer – stole number of valuable artworks and other valuable items worth $120,000 – items were later found stored in a friend's garage.
33.	**France** (35) [2010] NSWCCA 24	BES	PG (25%)	3y 9m NPP 2y 9m 27d	AD	Extensive record including similar offences – breached parole	Broke into department store and stole property worth $29,889.85 Difficult childhood including sexual abuse – drug addiction
34.	**Paese** [2010] NSWCCA 178	BES	PG (15%)	5y 7m NPP 3y 10m	AD	Lengthy - violence, firearms, stealing.	Broke into residence with two co-offenders knowing occupants at home – took small amount of money - high degree of force used to enter premises – highly threatening and menacing to victims.
35.	**Allan** (36) [2010] NSWCCA 213	BES	VG	4y NPP 2y 6m	AA 3y 3m NPP 2y	Extensive criminal record	Entered house and stole laptop and wallet – offence at lower end of scale
36.	**Sotheren** (39) [2011] NSWCCA 68	BES	PG (25%)	4y NPP 2y 6m	AA 3y 9m NPP 2y	Manslaughter - agg robbery inflict GBH - robbery inflict ABH	Broke into V's home in broad daylight – took jewellery and cash – low objective seriousness. Drug addiction – strong subjective features - harsh upbringing and background.
37.	**O'Neill** (43) [2012] NSWCCA 22	BES Mal damage	PG	3y 9m NPP 2y 9m Concurrent FT	AD	Extensive record – breached bail for similar offences	Broke into school, stole and damaged property.
38.	**Newton** (41) [2014] NSWCCA 41	BES	PG (25%)	3y NPP 18m	AD	Lengthy record – breached conditional liberty	Broke into granny flat at home of acquaintance – stole property and motor bike – lower end of seriousness – no damage In custody for most of past 23 years – chronic substance abuse
39.	**McCabe** [2016] NSWCCA 7	BES	PG (25%)	4y 6m NPP 2y 6m	AA 3y 4m NPP 1y 10m	Breached bail – record for similar offences	Entered unit by smashing window – apprehended by police leaving unit with property – below mid-range seriousness History of mental illness and drug abuse - remorse
40.	**Dittavong** [2017] NSWCCA 191	BES	PG (25%)	5y NPP 3y 7m	AA (only to backdate sentence)	Offence committed after parole revoked	Entered residential property and stole goods – slightly below mid-range Drug addiction and anxiety and depressive condition

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41.	**ER** (19) [2018] NSWCCA 286	BES Drive disqualified	PG (10%) PG (25%)	Indicative 5y NPP 2y 6m FT 18m Total: 5y 6m NPP 3y	AA Indicative 3y NPP 1y 8m FT 9m Total: 3y 4m NPP 2y	lengthy record including similar offences	Two men broke into residential home and stole property including $100,000 cash – offender drove car and knocked on door to ensure no one home – disqualified driver at time Drug user
42.	**Simpson** [2019] NSWCCA 137	BES Take and drive conveyance Dispose stolen property	PG (25%)	Aggregate 4y 6m NPP 3y 1m	AA Indicative: 2y 6m 1y 9m 6m Aggregate: 4y NPP 2y 8m	extensive history including break and enter offences – breached parole	Entered first floor unit through balcony – took keys and stole car from basement garage – pawned over $3000 worth of stolen property not related to break in offence – on appeal objective gravity reduced to low range Difficult and violent childhood – risk of institutionalisation
43.	**CM** [2020] NSWCCA 136	BES	PG (combined 40%)	3y NPP 2y 3m	AA 3y NPP 18m	Lengthy including similar offences	Broke into unit and stole property while on day release – mid range offence Genuine remorse – assistance – religious conversion – cirrhosis of the liver On appeal – failure to consider effect of existing sentence to ratio
44.	**Vute** [2026] NSWCCA 141	3 x s.114(1)(d) s.112(1)(a) s.117 Sched: 2 offences	PG	Indicative 7m 9m 9m 14m 7m Aggregate 2y 6m NPP 18m	AD	Lengthy. On conditional liberty.	s.114(1)(d) offences: Entered health clinic, took handbag worth $700 containing $1k cash and other items – used key to unlock cash register in restaurant, stole $100 – entered shop and took shop owner's phone. s.112 offence: entered shop, stole $300 from cash register. Limited planning. Institutionalisation - spent 17 of last 23 years in custody - medium to high risk of re-offending – childhood trauma – drug use.

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