Aggravated Break, Enter and Steal

Single Offence

s.112(2) (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

(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: 20 years

Standard Non-Parole Period (offence committed on or after 1.2.2003): 5 years

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
1.	**Cummins** (33) NSWCCA 23.11.1998	s.112(2) Sched: 2 x s.112(2)		PG	MT 4y 6m AT 1y 6m	AD	Lengthy record for serious offences	Forced entry into premises using fake search warrant with female co-offender - ransacked premises and stole property - schedule offences similar – instigator
2.	**Bell** (34-5) [1999] NSWCCA 423	s.112(2)	In company	PG	MT 4y 6m AT 1y 6m	AA MT 2y 6m AT 2y 6m	Lengthy including BES offences	Broke into residential house - injured hand breaking window and caused extensive damage by spilling blood around house - arrested in house. Aboriginal male with deprived background; drug addiction - father of three children.

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 AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
3.	**Emerson** (29) [2000] NSWCCA 271	s.112(2) Sched: 7 offences	In company Armed with offensive weapon	PG	MT 7y AT 3y	AD	Extensive criminal record	Broke into nursing home with brother and used knife to steal from 78y male resident - victim terrorised. Early plea.
4.	**Brown** (17) [2000] NSWCCA 548	s.112(2) Sched: s.113(1)	In company	PG	4y NPP 2y (cumulative to existing sentence)	AA 4y NPP 15m (cumulative - detention centre)	Lengthy criminal record including robberies	In company with three offenders assaulted 64y female and her daughter in front yard of house - forced way inside by smashing door panel and ransacked house - threatened victims with gun (replica?). Deprived background - suffering severe clinical depression and severe anxiety disorder - significant suicide risk
5.	**Coupe** (34) [2001] NSWCCA 112	s.112(2) Sched: 3 x BES	Infliction of corporal violence	PG (25%)	4y 6m NPP 3y	AA 4y 6m NPP 2y 6m	Appalling record	Female - confronted by occupant in home and caused minor injuries during scuffle - detained until police arrived. Appalling background - drug addiction
6.	**Buhagiar** (25) [2001] NSWCCA 376	s.112(2)	In company	PG	3y 10m NPP 2y 10m	AD	On parole for BES	Broke into remote farm property with co-offender - ordered 23y male occupant to floor - bound him with tape and made threats *Ellis* discount
7.	**Scott** [2001] NSWCCA 377	s.112(2) Sched: 13 offences		PG	7y NPP 4y 6m	AA 5y 6m NPP 3y 6m	Extensive criminal record - on bail when committed sched offences	Broke into house with co-offender - 80y old occupant in bad - assaulted around head with tomato stake Parity with co-offender
8.	**Stewart** (20) (2001) 124 A Crim R 371 [2001] NSWCCA 260	s.112(2)		VG	4y NPP 2y 6m	AD	Drug, property, driving and violent offences	Entered house through unlocked garage with co-offender - armed with hockey stick found in garage - son of homeowners threatened - damage done to house and property stolen
9.	**Lafferty** (27) [2002] NSWCCA 118	s.112(2)	Armed with offensive weapon	VG	6y NPP 3y	AD	Escape custody, dishonesty, violence	Broke into private home - owners returned - appellant escaped brandishing screwdriver. Drug addiction - offence committed two months after release from custody for similar offence.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
10.	**Duncan** (18) [2002] NSWCCA 164	s.112(2)		PG	3y 4m NPP 18m	AA (to backdate sentence only)	Substantial record - on bail	Broke into house with co-offender - brandished wood with nails at occupants - demanded and received money No difference in culpability despite youth - Deprived childhood - Issue of parity only
11.	**Crowe** (24) [2002] NSWCCA 245	s.112(2) Sched: Possess small qty cannabis		PG (25%)	6y NPP 4y	AD	Stealing, robbery, drugs - previous custody - on parole.	With co-offenders broke into jewellery store taking $750k worth of goods - used sledgehammer to break in, demanding staff open safe.
12.	**Kelly** (25) [2002] NSWCCA 277	s.112(2) Sched: Possess 0.09g heroin	In company	PG	5y 6m NPP 3y	AA 3y 6m NPP 21m	Record for dishonesty and drug offences	Broke into chemist with co-offender contrition - drug addiction Original discount of 6m on head sentence of 6y found inadequate on appeal
13.	**Prestwidge** (32) [2002] NSWCCA 439	s.112(2) Sched: Larceny 4 x Att BES	Mal inflict GBH	PG (20% on appeal)	5y 3m NPP 3y 6m	AA 4y 2m NPP 2y 9m	Significant	Female - entered house with co-offender - 86y male occupant assaulted with screwdriver and pillow on face - house ransacked - not involved in assault - follower Parity
14.	**Patten** (26) [2003] NSWCCA 33	s.112(2) Sched: Possess 3.2g methylamphet	in company	PG (1/3)	3y NPP 1y 8m PD	AA 2y 3m NPP 14m PD	No dishonesty or imp - breached bond	Broke into café with 3 co-offenders and stole cigarette machine - degree of premeditation and planning Aboriginal male - affected by death of father - 2 children (primary carer for 1) - above average prospects of rehabilitation – parity
15.	**Honeyman** (20) [2003] NSWCCA 292	s.112(2)	Inflicted ABH	PG	(effective sentence) 5y NPP 2y 3m	AD	Appalling	Broke into home of 98y female – knocked over occupant in escape Need for drug rehabilitation
16.	**Swain** (20) [2003] NSWCCA 364	s.112(2)	In company	VG	4y NPP 2y	AD	Lengthy and serious – breached parole	Broke into school and stole computer equipment
17.	**Warren** (38) [2003] NSWCCA 366	s.112(2) Sched: 4 offences	In company	VG	4y 6m NPP 3y	AA 3y 9m NPP 2y 3m	Lengthy – breached bond and bail	Broke into residential property with co-offender and removed property Long-term drug addiction - parity

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
18.	**Anderson** (38) [2004] NSWCCA 39	s.112(2)	In company	PG	3y NPP 18m	AA 3y NPP 12m	Prior record includes BES – breached parole	Broke into shed on property with brother looking for money – arrested when returned to scene Financial difficulties – depression – assistance given in relation to murder of sister – caring for sister's 5 children
19.	**Ah-See** (40) [2004] NSWCCA 202	s.112(2) Sched: 2 offences	Aware of presence of occupants	VG	4y NPP 3y	AD	Extensive record – breached parole	Broke into home of sleeping female – prepared property for removal then fell asleep Aboriginal male with drug problem - protective custody
20.	**Chen** [2004] NSWCCA 369	s.112(2)	In company	PG (20%)	4y NPP 2y 6m	AD		Broke into house and stole property – threatened occupants with knife Illegal immigrant from China
21.	**Dodd** (18) [2004] NSWCCA 374	s.112(2)	Aware of presence of occupant	PG (25%)	8y NPP 5y	AA 5y NPP 2y 6m	Extensive record including similar off – breached bonds	**SNPP 5 years** Broke into home of sleeping female and stole money in bag – unplanned offence Aboriginal male with deprived childhood – good prospects of rehabilitation
22.	**Ceissman** (31) [2004] NSWCCA 466	s.112(2) Sched: 2 offences	In company	PG (25%)	6y NPP 3y	Crown AA 6y 6m NPP 4y 6m	Extensive – all but 2m of last 9y in custody; breach of parole	**SNPP 5 years** In company and armed with a crowbar, participated in well-planned and professional bank robbery – $171,980 stolen, of which little recovered Protective custody - heroin and alcohol use – father of three children – support of de facto and father – remorse – some prospects of rehabilitation
23.	**Rogerson** [2005] NSWCCA 12	s.112(2) Sched: PHBI	In company	PG (15% on appeal)	Not stated	4y 3m NPP 2y 2m	Lengthy record – similar offences	**SNPP 5 years** Observed by occupant breaking into residential house with co-offender Long history of drug abuse - parity
24.	**BB** (16) [2005] NSWCCA 215	s.112(2) Sched: Mal wound	Aware of presence of occupants	PG (25%)	5y 6m NPP 3y	AD	Significant – breached probation	**SNPP 5 years** Entered house and assaulted male occupant with fence picket – stole wallet Delay – need for intervention with multiple drug and behavioural problems

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
25.	**Huynh** (24) [2005] NSWCCA 220	s.112(2)	In company	PG (20%)	8y NPP 5y [4m PSC]	AA 5y 4m NPP 3y 3m	Some but no previous custody (currently subject to other prison sentences)	**SNPP 5 years** In company - stole $90-100,000 of property – restrained by victim's' son, an off-duty police officer, who came in by chance with friend Vietnamese male – fractured family – heroin user – remorse – seeking D&A treatment in custody – protective custody
26.	**Lewis** (25) [2005] NSWCCA 300	s.112(2) Sched: 2 offences	Aware of presence of occupants	PG (1/3)	4y 6m NPP 2y 3m	AD	Drug, dishonesty and driving offences – no imprisonment – breached bonds	**SNPP 5 years** Female entered house of elderly couple sleeping – stole money – left after confrontation – stole from resident of nursing home and shop Drug addiction – violent personal history – health problems Errors but no lesser sentence warranted at law
27.	**Roberts** [2005] NSWCCA 401	s.112(2)	In company	VG	4y NPP 2y 6m	AD		Broke into warehouse with two other offenders – preparing to steal electrical goods when interrupted by security guard
28.	**Diamantis** [2005] NSWCCA 433	s.112(2) Sched: 6 Dishonesty off	In company	PG	6y NPP 4y	AD	Serious – breached parole and bail	**SNPP 5 years** Broke into shop with co offender and stole computers
29.	**Bushara** (24) [2006] NSWCCA 8	s.112(2) Sched: Take and drive conveyance	Aware of presence of occupants	PG (25%)	4y NPP 2y 6m	AA 3y 6m NPP 2y	Priors for similar offences – breached drug court prog	**SNPP 5 years** Broke into house through open garage – attempted to leave in car Failure to take into account pre-sentence custody
30.	**Douglas** (20) [2006] NSWCCA 94	s.112(2) Sched: Take and drive conveyance	In company	PG (15%)	3y 4m NPP 1y 8m	AD	Lengthy record – recent improvement	With co-offenders broke into retail store at night and stole property Remorse – good prospects of rehabilitation

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
31.	**Gibbs** (18) [2007] NSWCCA 171	s.112(2) Sched BES	In company	PG	2y 3m NPP 15m	AA 2y 3m NPP 12m	Similar offences – breached bond	**SNPP 5 years** Broke into house with two co-offenders – house occupied by sleeping mother and two children – one child awoke when someone entered room – second offence committed alone on residential house Aboriginal male with difficult and neglected childhood – mother with mental illness – failure to take into account quasi custody - parity
32.	**Maxwell** (33) (2007) 177 A Crim R 498 [2007] NSWCCA 304	s.112(2) Sched: Assault	Inflicted ABH	PG (10% on appeal)	5y NPP 3y 4m	AA 4y NPP 2y 6m	Lengthy record – breached bond	**SNPP 5 years** Broke into house - threw bottle at male occupant and assaulted him – attempted to punch second male – threats made – stole wallet - motivated by domestic dispute between friend and his ex-partner - use of weapon - knew person present – use of corporal violence
33.	**Nguyen** (35) (2008) 189 A Crim R 454 [2008] NSWCCA 219	s.112(2)	Inflicted ABH	PG (20%)	5y NPP 3y 9m	AD	BES offences – breached parole	**SNPP 5 years** Entered home through bedroom window – found by occupants searching wardrobe – bit male occupant on arm during struggle Schizophrenia
34.	**Kershaw** [2009] NSWCCA 19	s.112(2)	Aware of presence of occupants	PG	3y 9m NPP 2y 9m	AA 3y NPP 2y	Record – breached bond	**SNPP 5 years** Broke into home of 57y amputee aware occupant at home – spoke to occupant half hour before – intoxicated. Error of law established – SJ wrongly advised as to SNPP.
35.	**Davis** (29) [2009] NSWCCA 279	s.112(2) Sched: 2 x AOABH	Recklessly inflicted ABH	PG (25%)	6y NPP 3y 6m	AD	Record for similar offences – breached a bond	**SNPP 5 years** Broke into home through window – attacked 50y occupant with suitcase when confronted – struggle ensued and placed occupant in headlock causing choking – female occupant fended off - minor injuries – upper midrange of objective seriousness History of mental illness treated by drug and alcohol abuse

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
36.	**Forbes** (29) [2009] NSWCCA 292	s.112(2) s.154G (facilitate rebirthing of boat) Sched: 5 offences	In company	PG (20%)	6y 8m NPP 3y 4m FT 2y Total: 6y 11m NPP 3y 7m	AA 6y 8m NPP 3y 4m 2y NPP 18m Total: 6y 11m NPP 3y 7m	Significant although less serious	**SNPP 5 years** Involved in ram raid at arcade in early hours of morning where ATM stolen – well planned and executed – involved in organising offence and opening ATM after – not present during actual ram raid – joint criminal enterprise – just below mid-range – rebirthing of stolen boat and trailer worth $36,000 – suffered some degree of intimidation from co-offender Good prospects of rehabilitation
37.	**Kuehne** (30) [2011] NSWCCA 101 [2014] NSWCCA 22	s.112(2)	In company	VG	6y 8m NPP 5y	AD AA 6y NPP 4y 6m	Multiple BE, Agg BES, AOABH, GIC, Possess housebreaking implements. On parole.	**SNPP 5 years** Mid-range offence - with 2 co-offenders all wearing hoods broke into bakery and stole cash register and contents - observed by co-owner who called police – aggravating factors: offenders had a knife and a metal pole, caused damage to property, co-owner vulnerable as he was working alone on premises. Institutionalised – spent 10 of preceding 12 years in custody.
38.	**Lovoni** [2011] NSWCCA 289	s.112(2)		VG	5y NPP 3y 3m	AD	Breached parole	**SNPP 5 years** With co-offender broke into victim's home – victim arrived home – co-offender swung punch at victim – offender hid in nearby bushes and was apprehended – stole various electronic equipment
39.	**Madden** (24) [2011] NSWCCA 254	s.112(2)	In company	PG (25%)	4y 6m NPP 2y 6m	AD	Record	**SNPP 5 years** Broke into post office in company of female – stole property Aboriginal male – drug user – delay in charging due to DNA identification
40.	**Vlach** (33) [2012] NSWCCA 192	s.112(2) Sched: 7 offences	In company	PG (25%)	3y 4m NPP 1y 4m	Extension of time to appeal refused	Drugs, dishonesty, firearms	**SNPP 5 years** With two co-offenders, obtained victim's security access cards from victim's mailbox – gained access to victim's car park in apartment block – took items from victim's cars and drove away. Under influence of drugs.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
41.	**Hanania** (20) [2012] NSWCCA 220	s.112(2) Sched: Possess safe breaking implement Damage property	In company	PG (25%)	2y NPP 12m	AD	Property and driving – Agg BES	**SNPP 5 years** With co-offender broke into jewellery shop through roof – attempted to escape through glass front door – found in possession of angle grinder
42.	**Smith** (22) **Reilly** (24) [2012] NSWCCA 166	s.112(2) Sched: SMV Burn MV	In company	PG (20-25%) PG (25% on appeal)	5y NPP 3y 9m 5y NPP 3y	AA (to backdate sentence only) AA 4y 6m NPP 2y 9m	Lengthy sentence – breached bond and suspended sentence Lesser sentence	**SNPP 5 years** Stole motor vehicle and reversed into shop window – stole property – drove away then burned car – S was driver S – Aboriginal male with drug and alcohol abuse R – drug and alcohol abuse – born with developmental delays - parity
43.	**Williams** (24) [2013] NSWCCA 15	s.112(2) Sched: s 112(2)	In company	PG (25%)	4y NPP 2y 9m	AD	Substantial	**SNPP 5 years** Stole cigarettes of value in excess of $2600 from service station with two co-offenders Disturbing upbringing – substance abuse, particularly alcohol.
44.	**Hillsley** (23) [2013] NSWCCA 78	s.112(2)	In company	VG	3y 10m NPP 2y 2m	AD	Record included break and enter offences	**SNPP 5 years** Broke into commercial premises and stole tyres Low intelligence – married with two children – stole to support family
45.	**Allen** (22) [2013] NSWCCA 173	s. 112(2) Sched: Possess housebreaking implements	Aware of presence of occupants	PG (25%)	3y 9m NPP 2y 3m	AD	Lengthy. Multiple housebreaking offences. On parole for BES.	**SNPP 5 years** Broke into home of couple through flyscreen window – took handbag containing cash, phone and personal cards - towards lower end of objective seriousness. Alcohol and drug abuse – has spent only six months out of jail since 18th birthday – difficult upbringing.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
46.	**Zuccarini** [2013] NSWCCA 228	s.112(2)	In company	PG	3y NPP 1y 6m	AD		**SNPP 5 years** Smashed window and entered retail phone shop after hours – stole small amount of property Drug related mental condition
47.	**Dunks** [2014] NSWCCA 134	s.112(2)	In company	VG	6y NPP 4y	Conviction AD		**SNPP 5 years** Broke into home of female acquaintance - assaulted victim, stole medications, money, mobile phone and bank statement – seeking drugs
48.	**Biles** (21) [2014] NSWCCA 170	s.112(2)	In company	PG (25%)	5y 3m NPP 3y	AD	Lengthy record	**SNPP 5 years** Barged into bedroom of elderly couple resting – grabbed possessions from bedside table and left Difficult childhood
49.	**McGeown** (36) [2014] NSWCCA 314	s.112(2) Sched: 3 offences	In company	PG (50%)	4y NPP 1y 8m	AD	Lengthy record – breached bail and bonds	**SNPP 5 years** Passenger in car used to ram into front window of pharmacy – stole drugs and $500 Long history of drug abuse
50.	**Sparkes** (23) [2015] NSWCCA 203	s.112(2) s.154A Sched: 3 offences	In company	PG (25%)	6y 4m NPP 4y 9m	AD	Driving, aggravated assaults, aggravated break and enters, police pursuits, stealing motor cars - on bail.	**SNPP 5 years** Victim and adult son asleep inside premises - entered through fly screen door and main door, which was closed but not locked - removed victim's handbag and car keys - used car keys to unlock and access victim's car - below mid-range but not at bottom of range. Dysfunctional background – Aboriginal male - drug abuse from young age – drug addiction.
51.	**Boney** (27) [2015] NSWCCA 291	s.112(2) Sched: Attempt steal MV	Aware of presence of occupant	PG (25%)	4y 10m NPP 2y 10m	AD	Extensive - in last 11 years in custody for all but 18 months 9 on parole.	**SNPP 5 years** Broke into residence by forcing access through window - couple and 3 children lived in premises - stole wallet containing identification cards, handbag and phone. Aboriginal male with disadvantaged background -mental disturbance - borderline personality disorder. Referred to Drug Court to determine whether compulsory drug treatment order should be imposed

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
52.	**Alkhair** (38) [2016] NSWCCA 4	s.112(2)	In company	PG (25%)	4y NPP 3y	AD	Lengthy - armed robbery - enter building with intent – on parole.	**SNPP 5 years** Broke into apartment while owners were out – stole items – with co-offender. Drug abuse.
53.	**Hamilton** [2016] NSWCCA 59	s.112(2)	In company	PG	2y 10m NPP 18m	AA Only to backdate sentence		**SNPP 5 years** Few details given – smashed window and stole money
54.	**Tobia** [2016] NSWCCA 99	s.112(2)	In company	PG (25%)	3y NPP 15m	AD	Dishonesty offence – breached conditional liberty	**SNPP 5 years** Co-offender stole bag from 55y female earlier in day – during night both broke into house of female victim using house keys in bag and stole over $12,000 property Traumatic childhood – family forced to flee Iraq – parity with co-offender who was sentenced in drug court
55.	**Abdulrahman** (20) [2016] NSWCCA 192	s.112(2) Sched: s.113(2)	In company	PG (25%)	3y 6m NPP 2y	AD	Juvenile including similar offences – GIC as adult	**SNPP 5 years** Broke into home with co-offenders – ransacked premises and stole property – found attempting to break into second house
56.	**Usher** (33) [2016] NSWCCA 276	s.112(2) Proceeds of crime offence Sched: s.113(2)	In company	PG (10%)	5y 10m NPP 3y 3m	AD	Lengthy – dishonesty and driving	**SNPP 5 years** Broke into food store using keys and codes supplied by co-offender – left on first occasion when alarms activated – three days later broke in and stole $90,815 – purchased car with his share – lower mid-range to below mid-range Drug user – schizophrenia
57.	**Ridegway** (42) [2016] NSWCCA 184	s.112(2)	Aware persons present	PG (25%)	4y NPP 2y 9m	AA 3y NPP 2y	Significant – breached parole and bond	**SNPP 5 years** Female - Broke into home while occupants sleeping and stole property – no violence – no planning Dysfunctional background including sexual abuse - delay in charging – gender dysphoria but forced to reside in male prison

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
58.	**Potts** (41) [2017] NSWCCA 10	Att s.112(2)	In company	PG (5%)	4y 9m NPP 3y 6m	AA 3y 4m NPP 2y 6m	Lengthy – breached suspended sentence	Attempted to break into residential premises with adult son – tried front door and back area twice – little planning – towards less serious end of offending History of drug addiction as an adult – institutionalised – poor behaviour in custody – some prospects of rehabilitation Sentencing judge erred in referring to SNPP for attempt offence
59.	**Book** (27) [2018] NSWCCA 58	s.112(2)	In company	PG (25%)	2y 8m NPP 1y 8m	AD	Agg BES, larceny, cultivate proh plant	**SNPP 5 years** With 2 co-offenders used wire cutters enter home improvements store – stole items valued at $700. Substance abuse - depression
60.	**Millard** (37) [2018] NSWCCA 111	s.112(2) Sched: s.112(2)	In company	PG (25%)	3y NPP 1y 8m	AA 2y 6m NPP 1y 4m	Possess housebreak implements, driving	**SNPP 5 years** With co-offender robbed music shop – drove co-offender to shop and remained in car - co-offender kicked in door to music shop and stole guitars Solid work history until recent job loss – drug abuse - bankruptcy and relationship breakdown - medium / low risk of re-offending CCA: Parity ground.
61.	**Chahal** (29) [2017] NSWCCA 203 Co-offender: ELSHAIMY	s.112(2) s.33B(2)	in company	PG (10%) PG (20%)	5y 6m NPP 3y FT 2y <u>Total</u>: 6y 6m NPP 4y	AA 4y 8m NPP 2y 9m FT 2y <u>Total</u>: 5y 8m NPP 3y 9m	possession of knife	**SNPP 5 years** Broke into hotel with two men employed as security guards by hotel and assisted by manager - $146,000 taken – 3 months later found in possession of knife with intention of committing armed robbery in company – planned offences – below mid-range
62.	**Elshaimy** (24) [2018] NSWCCA 169 Co-offender: CHAHAL	s.112(2)	in company	VG	5y 6m NPP 3y 9m	AD	nil	**SNPP 5 years** One of two men who broke into hotel - assisted by manager - $140,000 taken Prior good character

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
63.	**Bezjak** (21) **Button** (27) [2018] NSWCCA 178	s.112(2) 2 x accessory after fact s.35(3) s.112(2) 2 x s.35(3)	Aware persons present	PG (5%) PG (5%)	5y 4m NPP 4y FT 18m (each) <u>Total</u> 7y NPP 5y 5y 8m NPP 4y 3m 3y 10m NPP 2y 6m (each) <u>Total</u> 8y NPP 5y 6m	AA 4y 9m NPP 3y 1m FT 17m (each) <u>Total</u>: 6y NPP 4y 5y 3m NPP 3y 9m 3y 10m NPP 2y 6m (each) <u>Total</u> 7y 6m NPP 5y		**SNPP 5 years** Bezjak drove Button and 3 co-offenders – Bezjak stayed in car then drove them away – Button and co-offenders armed with sawn-off shotgun and machete – approached victim who was shot twice and wounded by machete during altercation – co-offender entered house, threatened occupants with machete and stole $700 and jewellery - significant planning – approaching mid-range objective seriousness - Bezjak significantly less morally culpable Disadvantaged backgrounds – substance abuse and mental health – special circumstances On appeal Button disparity with co-offenders
64.	**Wanat** (34) [2018] NSWCCA 219	s.112(2) s.59	Actual bodily harm	PG (25%)	2y 3m 9m <u>Total</u>: 2y 8m NPP 1y 6m	AD	Lengthy – assaults - reckless wounding - intimidating police officer - damaging property – stalking - on parole	**SNPP 5 years** With co-offender assaulted male during argument over drugs – hit victim with fan – entered victim's home, threatened victim with wooden stick and threw it hitting victim's arm - middle of low range toward low range Mental health issues – drug and alcohol abuse
65.	**Laughton** (40) [2019] NSWCCA 74	s.112(2) AOABH	In company	VG	6y NPP 3y 6m FT 3y <u>Total</u>: 7y NPP 4y 6m	AA only to backdate sentence	Record includes drug matter and imprisonment – breached bail	**SNPP 5 years** Broke into home of male acquaintance with male and female co-offenders – victim assaulted causing fractures to eye socket – not clear who caused injury - stole property – history of animosity – some degree of planning – BES offence just below mid-range – assault offence well within mid-range Drug user

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
66.	**Kim** (22) [2019] NSWCCA 165	s.112(2)	In company Use of corporal violence Deprivation of liberty	PG (12.5%)	6y NPP 4y	AA 5y NPP 3y	while on bail committed further offence of false misrepresent to police	**SNPP 5 years** Broke into home of female acquaintance with father – attended home prior to offence to ascertain victim home alone – both offenders subsequently forced entry through screen door – father threatened victim – victim tied up with tape – forced to provide code for safe and $13,8000 cash taken – further threats made – above mid-range seriousness – father dominant offender Strong prospects of rehabilitation – Korean male with disjointed background and difficult relationship with father – isolated On appeal parity
67.	**Hardey** [2019] NSWCCA 310	s.112(2) Sched: Destroy property	In company	PG (12.5%)	3y NPP 2y	AA 3y NPP 2y (backdated 6m)	Number of matters (not indicated). On bail	**SNPP 5 years** With co-offender broke into residence – stole money and jewellery – acting as "lookout" outside while co-offender inside – no planning – lower end of range Drug addiction – favourable prospects of rehabilitation CCA: special circumstances - totality / accumulation with sentence currently being served for separate offences
68.	**Al Masri** (30) [2020] NSWCCA 1	s.112(2)	Use of corporal violence Inflict ABH Deprivation of liberty	PG (25%)	5y 8m NPP 4y 3m	AD	NII	**SNPP 5 years** Broke into residence through unlocked window – approached female victim (aged in sixties) from behind, punched in face, tied hands, kicked several times – stole $350. Substance abuse – facing deportation

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
69.	**Nicholls** (26) [2020] NSWCCA 66	s.112(2) s.154F steal motor vehicle Sched: 4 offences	Know persons present	PG (25%)	Indicative: 3y 3m NPP 2y 3y Aggregate: 4y 9m NPP 3y 4m	AA Individual sentences imposed. 3y 4m NPP 2y 3m 12m Total: 3y 10m NPP 2y 9m	Break and enter, assault, dishonesty. On parole.	**SNPP 5 years** Broke into residence of 62 year old male victim – entered through garage door, found keys to house – stole wallet containing cards and $15 – used keys to take motor vehicle as an afterthought – vehicle not damaged or vandalised – victim not disturbed, unaware of intrusion – minor planning - between low and middle range objective seriousness Aboriginal male – mental health CCA: error assessment objective seriousness of steal mv offence.
70.	**Norford** (41) [2020] NSWCCA 104 [2020] NSWCCA 175	s.112(2) s.111(2) Sched: Larceny	Know persons present	PG (25%)	5y NPP 2y 6m FT 18m (concurrent)	AA 3y 6m NPP 1y 9m FT 18m	lengthy – breached two bonds	**SNPP 5 years** Entered unit at night through unlocked door – took phone from charger – left when confronted by occupier in children's bedroom – spontaneous offence – low objective severity – no facts for other offences as not part of appeal Difficult childhood – sexual and physical abuse – removed into care – early drug abuse – institutionalised – homelessness – genuine remorse On appeal – SJ erred in assessment of objective gravity – applied *Cohen* [2011] NSWCCA 165 on relevance of offence being one of larceny - some positive evidence of rehabilitation - error as to commencement date corrected.

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
71.	**James** (19) [2021] NSWCCA 23	s.112(2)	In company	PG (25%)	4y NPP 2y	AA 4y NPP 19m 6d	Nil at time of offence – breached bail – some subsequent convictions	**SNPP 5 years** In presence of two other males entered bedroom of 16y male sleeping in afternoon – demands made for cannabis, victim assaulted and property stolen – absence of weapon and serious injury – below mid-range Autism and low cognitive ability – onerous custodial conditions On appeal: failure to properly consider mental and intellectual deficits and relationship to offending and custodial conditions
72.	**Bethune** (47) [2021] NSWCCA 115	s.112(2)	Victim present	PG (25%)	5y NPP 3y 9m	AA 3y NPP 18m	Lengthy – spent all but 18m of previous 20y in custody	**SNPP 5 years** Stole property from home of acquaintance and their neighbour – items found in offender's bag left at home of acquaintance – readily admitted offence when confronted – wandered into neighbours house while 'off his head' and pushed open flyscreen - aggravated by being in home of victim who was present – unplanned – no substantial damage – below mid-range Difficult and abusive childhood resulting in life long substance abuse problem – reduction in moral culpability - guarded to poor prospects of rehabilitation On appeal: sentence manifestly excessive – significantly less serious than typical case – near to bottom of range – easily detected and reversed – irrational and self-defeating offence

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
73.	**Kite** (25) [2021] NSWCCA 159	s.112(2)	In company	PG (25%)	3y NPP 1y 10m	AA To backdate sentence – immediate release	Limited – mostly drug and traffic matters – breached conditional liberty	**SNPP 5 years** One of four men who broke into unit through unlocked door – male occupant placed in head lock and money demanded – co-offenders armed with baseball bat and knife – victim opened safe after further threats made – money, jewellery and cannabis stolen – some destruction of property – offender unaware of presence of victim prior to entry – offence of short duration – offender's motivation was initially to obtain drugs for personal use- below mid-level seriousness Remorse – some prospects of rehabilitation On appeal: error in relation to accumulation to existing sentence and pre-sentence custody
74.	**Merheb** (41) [2021] NSWCCA 224	s.112(2) Attempt s.113(1) Sched: 2 offences	Know persons present	PG (25%)	Indicative: 4y NPP 3y 7m 2y 3m Aggregate: 5y 6m NPP 4y	AD	BES, some violence, receiving, drugs offences, supply drugs. On parole.	**SNPP 5 years** Entered premises – took laptop, mobile phones, keys and wallet. Early drug abuse - prospects for rehabilitation extremely guarded.
75.	**Browne** (32) [2023] NSWCCA 218	s.112(2) Sched: Consp rob in co Att dispose stolen goods s.166 Cert: Drive disqual		PG (25%)	4y 3m NPP 2y 9m 6m (concurrent)	AA 3y NPP 2y 3m (commenced 4m 8d earlier) 6m (concurrent)	Serious record for similar offences – released to parole 5w prior to committing offences	**SNPP 5 years** Agreed to assist co-offenders find getaway vehicle for planned robbery – broke into home with one co-offender during night - closed but unlocked door – stole property and two motor vehicles – one motor vehicle set alight when offenders realised it belonged to police detective – sought to sell equipment from car – limited knowledge of robbery offence and declined further involvement Genuine contrition – some insight – *Bugmy* principles applied – substance abuse On appeal: error in commencement date under s.47(5) CSPAct

	NAME (age if known)	OFFENCE	CIRCUMSTANCE OF AGGRAVATION	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	RECORD	FACTS
76.	**O'Rafferty** (23) [2024] NSWCCA 189	s.112(2) s.94	In company	PG (25%)	Indicative 2y 2y Aggregate 2y 9m NPP 21m	AA Indicative 18m 18m Aggregate 2y 3m NPP 18m	BES, carried in stolen vehicles, stalking, common assault, armed with intent, firearms, driving, resist police, supply and possession drugs	**SNPP 5 years** Knew victim had purchased vehicle - with two co-offenders forced entry into victim's property - took victim's X-box gaming console – two hours later offender confronted victim on driveway, asked where car was, lunged at her, grabbed her handbag containing money. Dysfunctional childhood - anxiety, depression and antisocial personality disorder - severe drug addiction – PTSD. CCA: Failure of legal representatives to place before sentencing court evidence relevant to subjective case
77.	**MacBlane** (50) [2025] NSWCCA 52	s.112(2)		PG (25%)	3y 3m NPP 2y 3m	AD	Extensive. BE&S.	**SNPP 5 years** With unknown person broke into motorcycle dealership by using tools to create large hole in external wall and entering store through the hole – made three entries into store - removed five motorcycles valued at $47k, accessories and clothing. Consumption of illicit drugs behind most if not all of offending – childhood sexual assault led to drug use and PTSD – remorse – rehabilitation guarded – special circumstances. On appeal: error taking into account criminal history and conditional liberty when assessing objective seriousness – no lesser sentence warranted

Last updated: June 2025