Enter or Remain in or upon Building or Land With Intent to Commit Indictable Offence

s.114(1)(d) (NSW) *Crimes Act*

s.114 (1)(d) Enter or remains in or upon any part of a building or any land occupied or used in connection therewith with intent to commit indictable offence

Maximum Penalty: 7 years

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	**Morgan** (31) (2003) 57 NSWLR 533 [2003] NSWCCA 230	s.114(1)(d) s.97(1) Rob in Co s.59(1) Sched: 4 offences	PG (25% for plea and Fernando)	4y NPP 2y 6m FT 3y 6m FT 2y 6m Total: 7y 6m NPP 6y	AA 3y 6m NPP 18m FT 3y 6m FT 2y 6m Total: 6y NPP 4y	Extensive record – breached parole	Assaulted and robbed victim with co-offender – 3 months later entered premises and assaulted both occupants – prolonged attack Aboriginal male with difficult background
2.	**Martin** (19) [2003] NSWCCA 325	s.114(1)(d) s.112(1) 2 x s.112(1) Larceny	PG (25%)	FT 12m 3y NPP 12m FT 12m FT 6m Total: 3y NPP 1y	AD		Entered property with co-offender and stole money – broke into house of 82y female and stole $151,000 from safe – broke into service station and stole cigarettes and caryard and stole clothing and computer – cut motor from boat

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	FACTS
3.	**MJM** (24) [2004] NSWCCA 66	s.114(1)(d) s.112(1) 8 x s.112(1) s.33B(a)	PG (15%)	FT 9m 5y NPP 3y FT 6m - 3y FT 3y Total: 6y NPP 4y	AD	Habitual offender	All offences committed in 1995 on same day – broke into residential properties and stole property – s.114 offence committed when interrupted by neighbour and left premises – threatened police with tomahawk on arrest Aboriginal male with deprived background
4.	**Hayes** (26) [2004] NSWCCA 156	s.114(1)(d) s.61I s.61L Sched: 3 offences	PG	FT 2y 8y NPP 5y 3m FT 2y Total: 12y NPP 9y 3m	AD	Later two offences committed on bail – record for indecent assault	Sexually assaulted tourist in street forcing penile-vaginal intercourse – 17m later indecently assaulted prostitute – 6m later attempted to force entry into home unit of female at 6am in morning
5.	**Crowley** (21) [2004] NSWCCA 256	s.114(1)(d) s.59(2) s.59(2)	PG (25%)	2y Bond FT 6m 12m NPP 9m (all concurrent)	Crown AD	Breached bond – lengthy record including imprisonment	With co-offender attempted to remove large television from wall in restaurant – involved in assault on two men outside Surf club

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
6.	**Ibrahim** (35) [2005] NSWCCA 43	s.114(1)(d) Intimidation Unauthorised possess firearm 2 x Supply cannabis leaf Supply cannabis leaf Sched: 3 offences	PG (20%)	2y NPP 18m FT 12m 2y NPP 18m FT 12m 20m NPP 15m Total: 4y 2m NPP 3y 9m	AA FT 18m FT 12m FT 12m FT 6m 18m NPP 6m Total: 4y NPP 3y	Later offences committed on bail for first offences - lengthy record	Let into unit by victim's flatmate – woke sleeping victim and demanded money – threats made – stole wallet – on arrest found in possession of 0.73g cocaine and .22 semi-automatic handgun – two years later supplied undercover police officer with cannabis
7.	**Diab** (32) [2005] NSWCCA 341	s.114(1)(d) s.113(1) s.113(1) s.117 Sched: Larceny	PG	FT 1y 2y 9m NPP 1y 9m FT 1y 6m FT 6m Total: 3y 7m NPP 2y 7m	AD	Lengthy record	Entered or attempted to enter three commercial premises Gambling problem

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
8.	**Smith** (32) [2005] NSWCCA 339	s.114(1)(d) Supply prohibited drugs s.35(1)(b)	PG (15%)	3y NPP 1y FT 2y 4y 6m NPP 2y Total: 6y 6m NPP 4y	AA / Crown AA 3y NPP 1y FT 3m 3y NPP 1y 6m Total: 5y 9m NPP 3y 9m	Record including imprisonment	Left 0.05g methylamphetamines at house for victim's mother – later returned and entered house through kitchen window – wrapped string around 14y female sleeping victim and applied significant force Drug addiction
9.	**McNaughton** (33) (2006) 163 A Crim R 381 [2006] NSWCCA 242	s.114(1)(d) s.59	PG (15%)	FT 2y 2m 2y 4m NPP 10m Total: 4y NPP 2y 6m	AD	lengthy	Attempted to steal money from amusement machine in holiday resort – threw coffee tin at manager attempting to stop offender
10.	**Gill** (38) [2010] NSWCCA 236	s.114(1)(d) s.112(2) (mal damage with fire) s.195(1)(b) s.195(1)(b) Sched: 4 x property damage by fire	PG (12%)	3y NPP 2y 5y 3m NPP 3y 18m NPP 12m 3y NPP 2y Total: 8y 3m NPP 6y	AD	Lengthy record	Entered store after hours with co-offender who worked at store – stole $16,890 from safe and damaged doors to simulate forced entry – later set fire to store causing extensive damage – two months later caused fire damage to council ticket box and shed containing building materials Chaotic childhood – alcohol and drug dependence

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
11.	**Couch-Clarke** (19) [2010] NSWCCA 288	s.114(1)(d) s.59 2 x s.95(1) s.95(1) Sched: AOABH Affray	PG (25%)	FT 9m FT 12m FT 18m 3y NPP 2y <u>Total</u>: 4y 6m NPP 3y 6m	AA / Crown AA FT 9m FT 12m FT 6m 3y 6m NPP 2y 6m <u>Total</u>: 4y 6m NPP 3y 6m	Breached bonds – minor record	Entered hotel room with three others - assaulted and robbed teenage male occupants
12.	**Roberts** (39) [2012] NSWCCA 232	s.114(1)(d) Sched: 4 offences	PG (25%)	3y NPP 2y 3m	AD	Significant record for violence – breached AVO and four bonds	Intent to intimidate - during argument with long term partner produced tomahawk and refused to leave premises – punched victim and held blade to throat – mid range seriousness History of domestic violence in relationship with victim

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
13.	**Elali** (35) [2025] NSWCCA 9	s.114(1)(d) (escape) s.114(1)(d) (larceny) s.51B Police pursuit s.60(1) Assault officer 2 x Drive disqual Use unauth number plate 2 x BES 3 x Larceny Escape police Sched: 12 offences	PG (25%)	<u>Indicative:</u> 3y 1y 9m 2y 4m 2y 4m 14m / 12m s.10A 3y 8m / 2y 6m 18m / 16m / 15m 12m <u>Aggregate:</u> 8y NPP 4y	AA <u>Indicative:</u> 3y 1y 8m 2y 4m 2y 4m 10m / 10m s.10A 3y 6m / 2y 4m 16m / 14m / 14m 12m <u>Aggregate:</u> 7y 6m NPP 3y 9m	Dishonesty, agg BE, BE, shoplifting, police pursuit.	Intent to escape police custody - escaped police custody whilst being escorted from hospital - entered residential premises and asked elderly occupants to hide him – they refused and he entered bedroom to hide from police - located by police after occupants signalled police. Intent to commit larceny – entered carpark of apartment block, searching through windows of parked cars holding wheel brace and metal pole. On appeal: Error as to maximum penalty for drive disqualified offences – absence of material at sentence regarding physical and sexual abuse in juvenile detention. Rehabilitation prospects uncertain – prior abuse aggravated antisocial personality disorder and substance abuse disorder.

Last updated: February 2025