Pervert the Course of Justice

s.319 (NSW) *Crimes Act*

s 319 do any act, or make any omission, intending in any way to pervert the course of justice

Maximum Penalty: 14 years.

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	**Fuller** (23) NSWCCA 13.7.1994	s.319	PG	MT 8m AT 2y	AD	Driving and dishonesty offences	Forged and presented at court five medical certificates to explain failure to attend periodic detention
2.	**Nomchong** (46) NSWCCA 10.4.1997	s.319	VG	36m PD	Crown AA MT 1y 3m AT 1y 9m		Police sergeant had conversations with junior officer over several days attempting to interfere with investigation into motor vehicle accident – no personal gain Good record – at serious risk in custody – loss of career
3.	**El-Mohamad** NSWCCA 7.10.1997	3 x s.319	VG	MT 18m AT 6m	AD	Nil	Made false claims for injuries purported to be received from motor vehicle accident – attempted to induce two friends to give false evidence – induced 15y son of friends to give false evidence in court
4.	**Jordan** (23) NSWCCA 3.11.1997	s.319 s.300(1)	PG	MT 1y 4m AT 1y 8m FT12m (concurrent)	AD	Nil prior to fraud offences	Bank teller had defrauded customer – on sentence produced cheque purporting to be full restitution – received lower sentence – had stopped cheque leading to police investigation – represented to police cheque stopped by bank error – masqueraded as bank manager and sent false letter confirming bank error
5.	**Bayeh** [1999] NSWCCA 82	s.319	PG	MT 2y AT 2y	AD		Submitted false affidavit swearing that a person who was overseas at the relevant time had discharged a firearm

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.	**Irwin** [1999] NSWCCA 361	s.319 s.107 *Police Integrity Commission Act*	PG	MT 12m AT 4m FT 12m (concurrent)	Crown AA MT 3y AT 1y FT 2y (concurrent)	Nil	Police detective sergeant paid another police officer to wipe fingerprints from bag of drugs that would have implicated K – falsely denied talking to K at Police Integrity Hearing – one other police officer corrupted and attempt made to corrupt second officer Death of wife led to emotional crisis – high level of remorse
7.	**Mrish** [2000] NSWCCA 17	s.319 s.319 Possess firearm	VG PG	MT 2y 3m AT 9m FT 2y FT 18m (all concurrent)	AD	nil	Brother charged with murder – sought addresses of witnesses for the purpose of intimidating them – also attempted to intimidate wife of brother's co-accused who was a potential witness – firearm found when charged with s.319 offences. Prior good character.
8.	**Zreika** (18) [2000] NSWCCA 75	s.319 s.322 – threaten witness s.316 – conceal serious offence (robbery)	VG	MT 9m AT 15m FT 12m FT 3m Total MT 1y 9m AT 15m	AD	Fraud; driving offences. On bail.	Present during supermarket robbery and failed to give details to police (s.316) – threatened girlfriend who knew of involvement in robbery (s.319) – told another witness that he would be getting proceeds from robbery then later threatened witness he "would get her" (s.322).
9.	**Purtell** (44) (2001) 120 A Crim R 317 [2001] NSWCCA 21	s.319	PG	s.10 non-conviction 2y GBB	Crown AA. Conviction entered – 2y GBB		Charged with assault and malicious damage – provided court with forged testimonial from his previous partner which resulted in more lenient sentence than would have been imposed. Good character – Deputy Mayor of Council – impressive community service.
10.	**Marinellis** [2001] NSWCCA 328	2 x s.319	PG (15%)	20m NPP 12m (concurrent)	AD		Charged with sexual assault – asked female acquaintance to provide false alibi and to give false evidence –approached another acquaintance asking for similar help in return for payment.

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11.	**Giang** (22) [2001] NSWCCA 276	s.319	PG	1y 3m NPP 8m	AD	Steal from person	Agreed to give false evidence for friend who was involved in a fight – did not initiate offence and would not gain from offence – motive only to help friend. Early plea – good prospects rehabilitation – good academic and work qualifications.
12.	**Reeves** [2002] NSWCCA 33	s.319	PG	18m suspended On breach sentenced to 18m NPP 12m	AA 15m NPP 9m	dishonesty	Female – in custody on another charge – removed two commitment warrants regarding brother's custody resulting in his early release Stale offence (1995) – rehabilitation
13.	**Giovannone** (2002) 140 A Crim R 1 [2002] NSWCCA 323	s.319	VG	15m NPP 6m	AD		Asked police officer for protection from arrest for acquaintance dealing drugs on offender's behalf. (Note: separate conviction for an offence against s.249B 'Corrupt commissions or rewards' quashed on appeal)
14.	**Zreika** (26) (2003) 138 A Crim R 95 [2003] NSWCCA 47	s.319	PG	FT 5y	AA 5y NPP 3y 9m	SMV; possess proh weapon	Made written request from gaol to female associate to alter her evidence at forthcoming trial – material intercepted by prison officers and police.
15.	**Nguyen** (30) (2004) 149 A Crim R 343 [2004] NSWCCA 332	s.319	PG	1y 10m suspended	Crown AA 18m PD	Nil	Detective Sergeant in police force – wife arrived in Sydney from overseas with stolen mobile phones discovered by Customs – convinced a relative to collect phones – prepared false documentation – relative arrested – convinced relative to plead guilty – significant form of pervert course of justice On appeal – too much weight given to subjective features.
16.	**Harrigan** [2005] NSWCCA 449	s.319 s.52A(3)	PG (20%)	FT 18m 4y 9m NPP 3y 3m <u>Total</u> 6y 3m NPP 4y 9m	AD	Lengthy, but no offences since 1992.	Committed dangerous driving offence – failed to stop – drove to transport company depot seeking crow bar to remove damaged mudguard from car – asked two friends to give false evidence to police including that car had been stolen.

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17.	**Finnie** (59) [2007] NSWCCA 38	s.319	VG	1y 6m NPP 9m	AD Crown AD	fraud	Gave false evidence at bail hearing that he needed treatment for prostate cancer – made false statements to doctor.
18.	**Taylor** (27) [2007] NSWCCA 99	2 x s.319 Mal wound	PG	Total 5y 6m NPP 4y 6m	AD		Stabbed victim who owed friend money – convinced girlfriend to give false evidence that another person had stabbed victim – persuaded mother to say that his jumper belonged to other person and asked mother to have acquaintance give false evidence Unemployed – drug abuse.
19.	**Podesta** (45) [2009] NSWCCA 97	s.319 s.316: conceal serious offence	VG	2y 6m NPP 12m 2y NPP 12m (concurrent)	AA 2y 6m NPP 12m 12m (concurrent)	Lengthy record including public justice offences	De facto partner found fatally stabbed after offender given information suggesting victim suffered from AIDS – son charged with killing – over three interviews gave police false information and omitted important facts – suggested female witness give false account – no threat or violence Female – history of drug abuse On appeal: maximum sentence for s.316 offences excessive
20.	**Einfeld** (2010) 200 A Crim R 1 [2010] NSWCCA 87	s.319 Perjury: s.327	PG (12.5%)	2y 3m NPP 15m 21m NPP 14m Total: 3y NPP 2y	AD		Offender's car recorded by speed camera – gave evidence in Local Court denying he had been driving (perjury) – when giving evidence identified another person as driver of car – person nominated was deceased – provided written statement to police which was false in number of particulars (pervert course of justice) Former barrister and Judge – status and experience rendered offences more serious
21.	**Tourni** (24) [2010] NSWCCA 317	s.319 2 x s.87 *ICAC Act* Sched: 3 x s.87 *ICAC Act*	PG	20m NPP 12m FT 6m Total 2y NPP 16m	AA 16m NPP 6m 26d FT 6m Total 20m NPP 10m 26d	Driving offences – lengthy	Gave false information in relation to involvement in scheme by probation and parole officer falsifying community service sheets – falsified 2 community service time sheets (s.319) – false entries used in preparation of Pre-Sentence Report tendered at subsequent hearing for driving offence – favourable report supported imposition of suspended sentence Delay – evidence of rehabilitation On appeal – NPP further reduced because applicant released to appeal bail and not appropriate to return to custody for 35 days

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22.	**Winter** (52) [2011] NSWCCA 59	s.319 s.319	VG	FT 2y 4y NPP 2y Total: 5y NPP 3y	AD	Lengthy. Dishonesty, Make false representation, driving	Female offender – son facing criminal charges – made a statement purporting to be retraction of evidence by a witness – made phone and text message threats to same witness that witness' mother and daughter would be hurt if he gave evidence. Mother of three – physical health problems
23.	**King** [2011] NSWCCA 274	s.319 Perjury: s.327	PG (10%) (25%)	16m NPP 12m FT 12m Total: 2y 3m 1y 11m 3 weeks	AD	B&E, malicious damage, larceny, arson	Convicted of arson offence – claimed brother's death affecting him at time of arson offence – brother had died after arson – falsified newspaper report in respect of date of brother's death – immature attempt to get undeserved sympathy for offence of real gravity – not designed to help him or another to escape conviction – lie easily discovered. Appalling childhood – intellectual functioning at lower end of average.
24.	**Moore** (40) [2012] NSWCCA 3	s.319	PG (25%)	18m NPP 6m	Crown AD	Lengthy record	Sought bail variation to attend work course in different town – produced forged letter from employer – lower end of scale of seriousness Bi-polar disorder Sentence partially cumulative to sentences for driving offences – extended head sentence by 4 months – no extension of NPP
25.	**Church** [2012] NSWCCA 149	s.319	VG	2y 8m NPP 1y 4m	AD	AOABH	Convicted of AOABH offence – misled magistrate by pretending to have cancer – magistrate imposed bond due to offender's supposed medical condition.
26.	**Michael** (26) [2014] NSWCCA 2	s.319	VG	2y 3m NPP 15m	AD	nil	Advised male being questioned by police to lie about being driver of a car – legal clerk acting as legal representative – weakened prosecution case against third party on serious offences Difficult childhood – loss of potential legal career – strong subjective case

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27.	**Stafford** [2014] NSWCCA 6	s. 319 2 x Furious driving: s.53	PG (25%)	1y 10m NPP 10m FT 3m Total: 2y NPP 1y	AD		Driver of vehicle involved in confrontation with occupants of another vehicle – initially told police and signed statement claiming to be passenger – later admitted he was driver. ADHA – bipolar condition – troubled youth.
28.	**Glover** (27) [2015] NSWCCA 293	Consp s. 319	VG	3y NPP 2y 3m	AD	Robbery in company, possess implements	Brother charged with armed robberies, refused bail – at brother's request offender and co-offender threatened potential witness in effort to have him change version of events – real and direct threats of violence. Drug and alcohol abuse – serving custodial sentence for robbery in company offences.
29.	**Hart** [2016] NSWCCA 71	s.319 4 x s.319 Sched: 5 x s.319	PG (10%)	2y 3m 1y 10m Aggregate 2y 9m NPP 1y 10m	AD	Driving, PCA offences	Barrister made false statements to courts – effect was removal of matters from one court to another on basis of false statements – statements made to achieve better outcome for client – "judge-shopping" – admissions made to ICAC inquiry. Alcohol problems – support of family and colleagues.
30.	**Reid** (37) [2016] NSWCCA 151	s.319	PG (25%)	2y 6m GBB	Crown AD in exercise of discretion	Driving offence	Provided false statement of alibi for friend in relation to assault offence and AVO – committed offence because afraid of friend and friend was his ice supplier Evidence of rehabilitation – offence out of character Judge erred in assessing seriousness as low – discretion based on ongoing evidence of rehabilitation and mental state

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31.	**Issa** (53) [2017] NSWCCA 188	s.319 4 x s.319 3 x Arson: s.195(1)(b) 2 x Arson: s.195(1)(b) Recklessly cause GBH in company: s.35(1)	VG PG (12.5%)	8y 7y 3y 4y 7y NPP 5y 3m <u>Aggregate</u> 12y NPP 9y	AD	Nil	On 5 separate occasions firebombed one commercial and four residential properties with intention of frustrating legal proceedings commenced against offender's company – deliberate, persistent and brazen conduct over two months – risk to occupants – in company of two men assaulted another victim who had commenced legal proceedings against company
32.	**Mariam** [2017] NSWCCA 292	s.319 Possess pistol: s.7(1) *Firearms Act*	PG	<u>Indicative</u>: 5y 4y NPP 3y <u>Aggregate</u>: 6y NPP 4y 6m	AD	Robbery, assault with intent	Police located .45 calibre automatic self-loading pistol together with detachable magazine loaded with 10 .45 automatic cartridges, within ceiling cavity in laundry of offender's premises – offered $35K and Toyota vehicle to as payment for K to sign statutory declaration that firearm belonged to K – K signed statutory declaration and received Toyota motor vehicle - sentenced on basis at some stage exercised control over weapon by possessing it – no finding that offender owned weapon Reasonable prospects of rehabilitation – supportive wife and family
33.	**Gordon** (50) [2018] NSWCCA 54	Reckless wounding: s.35(4) s.319 Sched: 4 offences	PG (15% on appeal) (25% on appeal)	3y 7m NPP 2y 8m 2y 9m NPP 2y <u>Aggregate</u> 4y 11m NPP 3y 7m	AA 2y 9m 2y 7m <u>Aggregate</u> 4y 6m NPP 2y 9m	moderate – include domestic violence	Punched female partner and struck her with small TV – caused significant injury to arm with golf club – seven months later argued over car and detained victim in house overnight – forced to escape through smashed window – later telephoned victim from custody seeking to have her drop charges – assault mid- to upper mid-range – justice offence low end of mid-range Subsequent evidence suggests good prospects of rehabilitation

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34.	**Johnston** [2019] NSWCCA 108	s.319	VG	1y 4m NPP 1y	Conviction AD		Off-duty police sergeant attended social function – stopped for roadside random breath test by probationary constable who was from same police station – prevented constable from administering breath test – told constable it would be a conflict of interest.
35.	**Pearce** (29) [2020] NSWCCA 61	Attempt s.319	PG	18m imprisonment to be served by ICO, with CSO 100 hrs.	Crown AD	Nil	Provided statement to investigating police with view to providing false defence to friend accused of sexual assault Good character – "substantial contributions to the community" CCA: full-time custodial sentence ordinarily warranted but for extraordinary subjective case.
36.	**PO** (62) [2020] NSWCCA 129	s.319	PG (25%)	3y NPP 1y 6m	AD	No history of any significance	Stepson charged with child sexual assault – approached victim KM who was carer to sexual assault child victim – through letters and documents warned KM about going to court to give evidence against stepson - made threats to KM and indirectly to child victim, including financial and emotional threats and threatening to go to media about victims; to destroy KM's business and her life and have her child removed - no threats of physical violence - number of criminal acts carried out on separate days - considerable preparation and planning - designed to derail prosecution of serious criminal proceedings. Long and useful working life – valuable member of society - psychiatric difficulties, depressive illness.
37.	**Sypher** (31) [2020] NSWCCA 336	s.319	PG (25%)	3y NPP 1y 9m	AA 2y 6m NPP 1y 6m	Breached three community corrections orders	Female – partner was stabbed and identified to police male acquaintance as assailant – approached by partner of assailant and agreed to withdraw allegation for $10,000 – serious offence given financial incentive Indigenous woman with difficult background – family struggled with financial hardship – sexually and psychically abused as a young child – early drug use – daughter removed from care and adopted out – developed serious mental illness – series of relationships characterised by violence On appeal: erred in not considering relationship between background and moral culpability – erred in rejecting expert evidence that mental health related to offending

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38.	**Vickers** (42) [2020] NSWCCA 297	s.319 5 x Publish false/misleading material to obtain financial advantage Possess firearm Supply drug Proceeds of crime s.166 Certificate: 5 offences	PG (25%)	Indicative: 3y 1y / 1y 6m 2y 4m 1y 6m Aggregate: 7y NPP 4y	AD	Yes. Not indicated.	Misled court as to identity - appeared in court unrepresented and presented himself as another person resulting in his conviction, fine and licence disqualification being recorded against innocent person's name – identity theft - came into possession of other person's identification papers/cards; used to obtain false motorcycle licence in that person's name – presented false licence to police when stopped for traffic infringements - serious example of pervert course of justice – mid range Traumatic childhood – addiction - family support.
39.	**Fahmy** [2021] NSWCCA 112	s.319	VG	2y NPP 1y 3m	AD	Lengthy. Assault, resist arrest, driving, drug supply, armed robbery.	Attended court registry and altered bail form by adding the words "or cancelled" thereby purporting to indicate that police supported cancellation of all reporting conditions - not planned – relatively low on spectrum of offending Borderline personality disorder and polysubstance abuse disorder – guarded rehabilitation prospects – family support.
40.	**Croke** (70) [2021] NSWCCA 249	s.319 s.319 3 x Publish false statutory declaration Participate in criminal group	VG	Indicative: 2y 6m 4y 6m 12m / 18m 3y 6m Aggregate: 5y 9m NPP 3y 9m	AD	Nil	Solicitor actively involved in scheme to reclaim $702,000 cash seized by police – aware money linked to illegal conduct – scheme pursued over nearly three years – conduct included assisting one co-offender give false account in police interview and taking matter to court with false affidavit – also drafted false statutory declaration and tax return – anticipated financial gain and use of position as solicitor aggravating factors – criminality high – importance of general deterrence Prior good character – poor health – loss of earning capacity – good prospects of rehabilitation – harsh custodial conditions due to Covid

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41.	**Thurlow** [2022] NSWCCA 20	s.319 s.319	PG VG	Indicative: 2y 2y 4m Aggregate: 2y 10m NPP 20m	AD	First time in custody	Charged with sexual offences after party – arranged meeting with two friends to construct false story to support what offender had told police – instigator – significant planning – acquitted of sexual offences – offences around mid-range Prior good character – low risk of re-offending – good prospects of rehabilitation – mental health – job loss On appeal: no error in concluding offence too serious for ICO
42.	**Edmonds** [2022] NSWCCA 103	s.319 s.319	PG (25%)	Indicative: 3y 9m 3y 9m Aggregate: 4y 6m NPP 3y 4m	AA 3y NPP 2y 3y NPP 2y (concurrent)	Dishonesty offences	Female - forged two medical certificates used for her female partner's bail application and sentence hearing for firearms offences – assessment of objective seriousness reduced to mid-range on appeal On appeal: procedural unfairness and error in assessment of objective seriousness On re-sentence – Bugmy factors including exposure to low socio-economic conditions, violence and drug use – good prospects of rehabilitation and remorse – mother to three children
43.	**Mehajer** [2022] NSWCCA 240	s.319 s.319 Perjury: s.327	VG	Indicative 2y 6m 2y 1y Aggregate 3y 6m NPP 2y 3m	AD	Record although offences not stated – on bail and bonds.	Tried to secure bail conditions in court proceedings under false pretences to further business interests - swearing and use of false affidavit - provided false information as to circumstances of employment - made false statement on oath about his employment - significant planning and preparation of documentation. Requires long-term mental health treatment – special circumstances - high media profile – protective custody - depression and anxiety.
44.	**MO** (34) [2023] NSWCCA 26	s.319 s.319	VG	Indicative 6y 5y Aggregate: 7y NPP 4y 3m	AD	Priors including dishonestly and violence	Part of criminal group charged with drug related shooting – agreed to pay witness $25,000 to give false evidence at trial for shooting – after conviction agreed to pay second person $80,000 to make false affidavit – offending serious – occurred over some period of time with persistence and some sophistication – breached bail – sought acquittal and compensation claim Nil insight or remorse On appeal: no breach of parity principles and not excessive

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45.	**Richards** [2023] NSWCCA 264	s.319 s.166 certificate- Contravene ADVO	PG (25%)	3y NPP 2y 15m (concurrent)	AD		Female - Solicit person to kidnap, detain and threaten to pervert course of justice –applicant and ex-husband involved in acrimonious Family Court proceedings – applicant wanted ex-husband detained and threatened until he agreed to apportionment of property – undercover operative acted as go-between between applicant and "enforcer" – initial approach to AB asking him to arrange to kill ex-husband - two lengthy recorded conversations with BB setting what wanted to happen; offered to pay $20k - conversation with nephew two months later where applicant still considered arrangement on foot. Mental health issues - alcohol use disorder – difficult background.
46.	**New** (28 - 32 at sentence) [2025] NSWCCA 32	s.319	PG (5%)	2y 2m	AA 14m NPP 10m	Nil	Attempted to remotely delete contents of iPad after seized by police investigating other alleged offences against offender – advised by parent (a solicitor) it was permissible to delete contents of devices - lack of sophistication - well removed from most serious offending. Prior good character – difficult upbringing. CCA: Acquitted of other offences – re-sentenced for present offence.

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