

Sexual Intercourse Without Consent

Victim Aged 16 Years or Older

s.61I (NSW) *Crimes Act*

s 61I Sexual intercourse with another person without consent of the other person knowing the other person does not consent

Maximum penalty: 14 years

Standard non-parole period: 7 years (for offences committed on or after 1.2.2003)

Commenced: 17.3.1991

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Boyle NSWCCA 12.9.1994	s.61I	PG	MT 3y AT 1y	AD	no prior serious convictions	Had intercourse with wife for sole purpose of hurting her.
2.	MDW (24) NSWCCA 10.10.1994	s.61I	VG	MT 4y 9m AT 1y 6m	AD	nil	Forced sister to have penile / vaginal intercourse in car – treated complainant in 'cruel and callous' manner - breached position of trust - complainant profoundly affected by offence - had previously sexually assaulted complainant although no charge.
3.	Munday NSWCCA 2.12.1994	s.61I	VG	MT 2y 6m AT 2y 6m	AD	not relevant	Sexually assaulted female acquaintance in cab of semi-trailer - driving complainant home after spending time with her at club – had consensual intercourse some months prior to offence. Some attempts at rehabilitation.
4.	Glen (27) NSWCCA 19.12.1994	s.61I	PG	MT 2y AT 2y	AD	minor	Sexually assaulted ex-girlfriend in front yard of friend's house - relationship ceased prior to offence but continued as good friends Supported by complainant at sentence hearing.
5.	Hollis (47) NSWCCA 3.3.1995 / 10.3.1995	s.61I	PG	18m PD	Crown AA MT 2y 3m AT 9m	nil	Sexually assaulted 23y female tenant in house at time - aware other occupants of house away and complainant alone with two small children. Pleaded guilty at sentence indication - excellent subjective features.

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6.	Byfield (26) NSWCCA 21.4.1995	s.61l	VG	MT 3y AT 1y	AD	serious but no sexual offences	Sexually assaulted former girlfriend with whom he was staying – penile / vaginal intercourse - threatened complainant's 4y son.
7.	O'Rourke (31) NSWCCA 25.7.1995 / 23.8.1995	s.61l	PG	MT 18m AT 18m	Crown AA MT 3y 6m AT 2y 6m	serious sexual offences	Sexually assaulted 21y female Canadian tourist on isolated beach - penetration with tongue, fingers and penis. Sentence indication
8.	Windle NSWCCA 29.8.1995	s.61l	VG	MT 4y 11m AT 18m	AD	minor, none involving violence	Sexually assaulted English tourist he had been smoking marijuana with at beach – when offender threatened to kill complainant pretended to enjoy assault.
9.	McLawrence (27) NSWCCA 28.9.1995	2 x s.61l	VG	MT 6y AT 2y	AD	short periods in custody - on bail	17y female accompanied group of men to house - sexually assaulted by four men – offender forced her to perform fellatio then forcing penile / vaginal intercourse. Depression and suicidal thoughts.
10.	Tolmie (1995) 84 A Crim R 293	s.61l	VG	MT 2y AT 2y	AD		Offender and complainant seen together at awards night becoming intimate - later sexually assaulted complainant as both were proceeding to friend's house in group - penile penetration
11.	Da Silva NSWCCA 30.11.1995	s.61l	PG	MT 12m AT 1y 6m	AD	nil	Digitally penetrated 16y female asleep on lounge. Stable relationship and small child.
12.	Pastovsky NSWCCA 28.6.1996	s.61l Attempt s.61l	VG	MT 2y 6m AT 1y 6m	AD	minor summary matters	Female complainant met offender through advertisement in newspaper and accompanied him to his flat - forced penile intercourse after threatening to choke her - attempted second act of intercourse Lack of English would make prison life more difficult.
13.	Balfour (28) NSWCCA 23.7.1996	s.61l	PG	MT 2y 6m AT 2y	AD		Left Club with female complainant intending to have consensual intercourse at her house – en route she changed her mind and sought to return to Club – offender assaulted her and forced penile intercourse. Sexually abused as a child.
14.	Anderson NSWCCA 30.10.1996	s.61l	VG	MT 2y 6m AT 2y	AA MT 18m AT 2y	on recog for similar offence	Male complainant accompanied offender home and forced to stay night after becoming intoxicated - awoke to find offender fellating him - offence showed degree of planning and premeditation. Suffering from alcohol and psychological problems.

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15.	Weekes (27) NSWCCA 28.2.1997	s.61l Sched: Possess and use heroin	VG	MT 2y 6m AT 18m	AD	minor except for assault de facto	Forced de facto to have anal intercourse with him despite her refusal - acquitted of second count involving vaginal intercourse he claimed was consensual. Suffering mental illness although no causal link to offence - drug abuse.
16.	Wolff (45) NSWCCA 7.7.1997	s.61l	PG	MT 2y 6m AT 2y 6m	AD	minor driving offence	Complainant had previously terminated sexual relationship with offender and become engaged to another man – offender resented this and sought to punish complainant - while working with complainant forced her to perform fellatio on him, ejaculating into her mouth - crudely expressed pleasure at having punished complainant to her fiancé and friend. Good work record.
17.	DAR (15) NSWCCA 2.10.1997	s.61l	VG	MT 2y 6m AT 18m	AA MT 2y AT 2y	extensive record although no prior sexual offences	18y female awoke to find offender holding her to bed - forced penile intercourse while co-offender rubbed penis in complainant's hand – offender had broken into house. Aboriginal youth
18.	Fordham (42) (1997) 98 A Crim R 359 NSWCCA	3 x s.61l	VG	MT 4y 6m AT 1y 6m	AD	assault female	While living with fiancé and 55y mother regularly sexually assaulted mother - forced complainant to perform fellatio on him - complainant mildly intellectually impaired.
19.	Radford (28) NSWCCA 4.3.1998	s.61l	PG	MT 3y 6m AT 1y 6m	AD	some violence and dishonesty but no significant custody	Obtained lift with female complainant from Pizza shop - attacked complainant in car, forcing her out of car and struggled on ground - inserted fingers into vagina - terrifying violence inflicted on complainant
20.	May (18) [1999] NSWCCA 40	s.61l	PG	3y PD	Crown AD		Sexually assaulted 18y female friend while she was intoxicated and asleep - fondled her breast, inserted fingers in vagina and had penile intercourse. Offence out of character – intoxicated - remorse On appeal - unusual for sentence of less than full time custody to be imposed for this type of offence
21.	Karatas [1999] NSWCCA 151	4 x s.61l	VG	MT 6y 9m AT 2y 3m	AD	bad record for violence	Entered flat of 24y female on pretext of collecting refrigerator - over three hours subjected complainant to numerous acts of intercourse including cunnilingus, digital penetration of vagina, fellatio and penile penetration of anus - also used banana and threatened to kill complainant - devastating effect on complainant

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22.	Carr (24) [1999] NSWCCA 200	s.61I	PG	MT 3y AT 1y	AA MT 2y 3m AT 1y 9m	dishonesty	Had sexual intercourse with female complainant while she was asleep in nearby bed - both heavily intoxicated. Sentence cumulative to sentence of approx 9 months for attempt SMV and AOABH
23.	Gust (mid-40s) [1999] NSWCCA 265	s.61I	VG	MT 3y AT 3y	AD	relatively prior good character	Sexually assaulted female cousin in mid-30s he had recently become acquainted with - afternoon talking and drinking at complainant's house then assaulted forced penile penetration
24.	Smith [2000] NSWCCA 148	s.61I	PG	MT 4y 6m AT 2y 6m	AD		Forced penile intercourse on female acquaintance. Aboriginal male - remorse.
25.	Orth [2000] NSWCCA 126	2 x s.61I Attempt s.61I	PG	MT 6y AT 3y	AD	good character	Sexually assaulted female walking to nightclub in centre of Sydney in early hours of morning - digital and penile intercourse - striped her of clothes and attempted to penetrate anus.
26.	Martin [2000] NSWCCA 332	3 x s.61I	VG	MT 6m AT 2y 3m	Conviction AD		Sexually assaulted tourist from Canada in dormitory of backpacker lodge – complainant in bed with eyes closed and thought offender was her boyfriend - digital and penile penetration and cunnilingus.
27.	Dayeian [2000] NSWCCA 348	4 x s.61I	VG	MT 2y AT 2y	AD	nil	Digitally penetrated wife anally and vaginally over 5m period. Suffering from various personality disorders - suicidal tendencies.
28.	Upton (2000) 116 A Crim R 298 [2000] NSWCCA 305	61I	VG	MT 2y 6m AT 2y 6m	AD	False pretences and assault	Took 26y Austrian teacher on skiing trip – complainant awoke to find non-consensual intercourse had taken place during night
29.	MLW (15) [2001] NSWCCA 133	s.61I	PG	3y NPP 1y 8m	AD		Sexually assaulted 16y old female met at party earlier in evening - violent and extended attack - forced penile / vaginal intercourse twice and oral intercourse once.
30.	O'Brien (29) [2002] NSWCCA 102	s.61I	VG	4y NPP 18m	AD	nil	Sexually assaulted female friend while she was asleep after party - behaviour affected by alcohol Married with two young children - lost promising career as a nurse - remorse - protection

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31.	Mitton (48) (2002) 132 A Crim R 123 [2002] NSWCCA 124	2 x s.61I	VG	5y NPP 3y	Conviction AD		Sexually assaulted 16y friend of goddaughter - complainant and friend staying with applicant in Sydney - forced digital and penile intercourse of vagina - claimed consent
32.	Shepherd (19) [2003] NSWCCA 9	s.61I	PG (sentence reduced by 1 year)	4y NPP 2y	Crown AD	3 dishonesty offences	Broke into home of 69y female and forced penile / vaginal intercourse Aboriginal male - intoxication a mitigating factor - early addiction - remorse
33.	Davidson (49) [2003] NSWCCA 11	7 x s.61I Sched: Supply and self- admin cannabis	VG	10y NPP 7y 6m	AD	extensive record although less serious offences	Lured 16y female to get some cannabis - drove to isolated bush area and raped her during night - penile/vaginal intercourse, oral sex and forced masturbation of offender – pre-planned offence Aboriginal male - involved in Aboriginal community
34.	Porteus [2003] NSWCCA 18	2 x 61I	VG	4y NPP 18m	AD	Prior good character	Masseur sucked penis of two male patients on separate occasions
35.	Baverstock (50) [2003] NSWCCA 228	6 x 61I Sched: 3 x 61I Assault	PG (20%)	7y NPP 3y 6m	AD	Nil relevant	Forced Chinese wife to have intercourse while tied to bed – cunnilingus, fellatio, digital penetration of vagina and anus - aware no consent – complainant vulnerable due to temporary visa status Ill health – prior good character
36.	G.A.R. (50) [2003] NSWCCA 224	61I	VG	6y NPP 4y 6m	AD	Lengthy – long periods of imprisonment	Sexually assaulted recently divorced wife – element of violence
37.	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 <u>Total:</u> 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

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38.	Davis [2004] NSWCCA 298	2 x s.61I	VG	5y NPP 3y	Conviction AD		Drinking with 16y complainant and friends at complainant's sister's house – both intoxicated – followed complainant as she commenced walking home – forced complainant into paddock and forced anal and vaginal intercourse
39.	Dallas [2004] NSWCCA 316	61I Sched 1 x 61L	PG (on appeal – 10%)	3y 6m NPP 1y 6m	AA 3y NPP 1y 4m	Recent conviction for falsely holding himself out as entitled to practise medicine	Conducted vaginal and breast examinations of complainant, who consented believing falsely offender was qualified doctor – desperately wanted to be a doctor and loved helping people Clinical anxiety and depression – suicidal ideation On appeal: insufficient discount for guilty plea
40.	Kershaw (39) [2005] NSWCCA 56	s.61I Sched: Breach AVO	PG (10%)	5y NPP 2y 6m	AD	Minor – assault on wife	Forced wife to have intercourse in home Remorse and contrition – relationship continued
41.	Perrin (18) [2006] NSWCCA 64	s.61I Sched: Agg ind assault	PG (less than 25%)	6y NPP 4y	AA 4y NPP 2y	Nil	SNPP 7 years Sexually assaulted 18y female acquaintance – penile intercourse – everyone intoxicated – later exposed penis near complainant's face Prior good character – protective custody
42.	Rigby (23) [2006] NSWCCA 205	4 x s.61I	VG	8y NPP 5y	AA 8y NPP 4y	Rob in company – breached parole	Attacked 19y female on train station in early hours of morning – penile/vaginal intercourse, fellatio and cunnilingus Fresh evidence of schizophrenia
43.	Walker [2006] NSWCCA 228	3 x s.61I	VG	6y 6m NPP 4y 6m (concurrent)	AD		SNPP 7 years Sexually assaulted former partner in her home – anal intercourse, fellatio and penile / vaginal intercourse
44.	LM (minor) [2006] NSWCCA 322	3 x s.61I	PG	5y NPP 3y (concurrent)	AD		Assaulted 17y female residing at same premises – forced into bathroom – vaginal / penile intercourse and fellatio Destructive childhood – drug abuse and sexual / physical abuse
45.	Dean (44) (2006) 166 A Crim R 341 [2006] NSWCCA 341	s.61I	VG	10y NPP 7y	AA 9y 4m NPP 7y	Lengthy	SNPP 7 years Sexually assaulted sleeping 24y daughter of de facto – penile/vaginal penetration - Mid-range objective seriousness. On appeal - no reason given for longer parole period

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46.	Gallant (45) [2006] NSWCCA 339	2 x s.61I	VG	5y NPP 3y 9m (concurrent)	AD	Minor	SNPP 7 years Sexually assaulted 23y female at skydiving clubhouse – digital penetration of vagina - penile/vaginal penetration – both club members - Mid-range objective seriousness.
47.	J.R.B. (52) [2006] NSWCCA 371	s.61I	VG	3y NPP 3m	Crown AA 3y NPP 15m	Nil	SNPP 7 years Sexually assaulted sleeping female friend in own home – spontaneous – no force or threat – penile / vaginal intercourse - lower end of scale Ill health
48.	Carvahlo [2007] NSWCCA 344	s.61I	VG	8y NPP 5y 4m	AD	Assault, B&E - on parole.	SNPP 7 years Met 19y female English tourist in hotel – forced penile/vaginal penetration on complainant in ladies' toilets Evidence of frontal lobe damage.
49.	Sabapathy [2008] NSWCCA 82	s.61I	PG (12%)	3y NPP 18m	AD	Nil	SNPP 7 years Landlord sexually assaulted female renting granny flat – both intoxicated – reckless as to consent – penile/vaginal intercourse with multiple positions - low to mid-range objective seriousness. Good character – good prospects of rehabilitation
50.	Graham [2008] NSWCCA 174	s.61I Att s.61I	VG	9y 6m NPP 7y FT 5y <u>Total:</u> 9y 11m NPP 7y 5m	AA 9y 6m NPP 6y 5m FT 5y <u>Total:</u> 9y 11m NPP 6y 10m		SNPP 7 years Spent evening at offender's unit after night out – penile / vaginal intercourse – attempted second penile/ vaginal intercourse – knew complainant not consenting - mid-range objective seriousness.
51.	Qin (52) [2008] NSWCCA 189	s.61I Indecent ass	VG	10m suspended 5y GBB	Crown AD	Prior s.10 for indecent assault	SNPP 7 years Masseur at clinic removed underpants of female customer – massaged bottom cheek and passed hand over anus – massaged vagina – almost at lowest level of culpability – breach of trust Crown appeal: no error in finding of objective seriousness almost at lowest level – sentence not outside discretion of SJ

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52.	Giotas [2008] NSWCCA 287	2 x s.61I	VG	5y NPP 3y 4m	AA 4y 6m NPP 2y 3m (concurrent)		SNPP 7 years Asked receptionist from work to bring papers to home unit – forced penile /vaginal intercourse – turned complainant on stomach and forced intercourse for a second time – at least mid-range offence Retrial – sentence unjustifiably greater than sentence imposed after first trial
53.	King (33) (2008) 191 A Crim R 552 [2008] NSWCCA 316	s.61I	PG (1/6 th)	5y 10m NPP 4y 3m	AD	Bad record – including dishonesty and violence	SNPP 7 years Spent day socially with complainant – forced digital penetration in public toilet cubicle – complainant hit head on toilet bowl in struggle Aboriginal male - difficult background
54.	Gillies (43) [2008] NSWCCA 339	s.61I Film for indecent purposes	VG	6y 8m NPP 5y 6m (concurrent)	AD		SNPP 7 years In relationship with complainant – had been arguing – while complainant asleep and intoxicated inserted bottle into vagina – complainant said “Don’t” – complainant had no recollection – activity recorded by offender
55.	Dionnet (40) [2009] NSWCCA 85	2 x s.61I	VG	10y NPP 7y (concurrent)	AD	Not of great significance – assault, driving	SNPP 7 years Assaulted complainant who was on working holiday from Italy – entered room at boarding house – punched complainant in temple – made clear he was there to have sex with her - penile / vaginal penetration - above mid-range objective seriousness.
56.	Mitten (30) [2009] NSWCCA 103	s.61I Sched: Ind assault Resist arrest Possess LSD and cocaine	PG (25%)	5y NPP 3y 9m	AA 5y NPP 3y	Minor offences – breached bail for indecent assault offence	SNPP 7 years Assaulted 21y female at service station – digital penetration - forced complainant against wall and inserted fingertips into vagina – bit complainant twice on neck – offences took place in public in front of complainant's friend – earlier offence of indecent assault involved kissing stranger on mouth - low range objective seriousness. Intoxicated - remorse
57.	McCartney (22) [2009] NSWCCA 244	s.61I	PG (16.6%)	2y 6m NPP 1y 3m	AD	Nil	SNPP 7 years Met complainant at nightclub and pizza restaurant - took complainant home and forced her to have intercourse – penile / vaginal intercourse – intoxicated - low range objective seriousness.

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58.	Salmond [2010] NSWCCA 141	s.61l Indecent ass	VG	4y 6m NPP 2y FT 2y (concurrent)	AD	Nil	SNPP 7 years Worked as massage therapist – massaged complainant – massaged breasts – digital - inserted finger in vagina – opportunistic offence - below mid-range objective gravity. Favourable subjective features – good character — good rehabilitation prospects – special circumstances.
59.	BP (16) (2010) 201 A Crim R 379 [2010] NSWCCA 159	s.61l	VG	6y NPP 4y	AA 5y NPP 3y	Lengthy record including aggravated sexual assault at 12y age	Dragged 19y acquaintance across road and sexually assaulted her in bushes in early hours of morning – both drinking during night with group of people – penile / vaginal intercourse - just below middle range Offence committed four days after finishing bond for earlier sexual offence – Aboriginal youth - raised in domestic violence and substance abuse – limited education
60.	Ali (22) [2010] NSWCCA 35 [2014] NSWCCA 45	2 x s.61L s.61l	VG	10y 8m NPP 8y FT 2y (concurrent)	AD AA 8y 8m NPP 6y 6m FT 2y (concurrent)		SNPP 7 years Taxi driver assaulted intoxicated female passenger – touched breast and between legs – drove to secluded area and had penile / vaginal intercourse – ejaculated inside complainant Difficult custodial conditions Second appeal – <i>Muldrock</i> question
61.	Daley (37) [2010] NSWCCA 223	s.61l	PG (17.5%)	5y NPP 3y 6m	Crown AA 5y NPP 3y 6m To increase accumulation with existing sentences	Serving sentence for sexual offences committed while serving another sentence – lengthy record	SNPP 7 years Forced anal intercourse on 19y cell mate – threatened violence Aboriginal male - neglected childhood – alcohol problems – high risk of re-offending – previous sexual offence similar to current offence

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62.	Russell (46) [2010] NSWCCA 248	s.61I s.61I 2 x s.61L	VG	9y NPP 7y FT 7y FT 18m <u>Total:</u> 9y 6m NPP 7y 6m	AA 9y NPP 7y 9y NPP 7y FT 18m <u>Total:</u> 9y 6m NPP 7y 6m	extensive record for violence and sexual offences	SNPP 7 years Went out with 19y neighbour – while sitting at park placed hand on leg under skirt – placed fingers in vagina and licked vagina – digital intercourse back in offender's home after threats made – opportunistic offences Aboriginal male - difficult background – early alcohol addiction
63.	Jiang [2010] NSWCCA 277	2 x s.61I s.61L	VG	2y NPP 18m FT 6m (concurrent)	AD	nil	SNPP 7 years Chinese masseur inappropriately touched French female backpacker during body massage – touched clitoris, sucked breast and pushed finger against vagina – low range of seriousness – opportunistic – short duration – breach of trust – desisted when asked
64.	Rajendran (35) (2010) 206 A Crim R 316 [2010] NSWCCA 322 [2014] NSWCCA 113	s.61I	VG	7y 6m NPP 5y	AD AD	Nil	SNPP 7 years Met on internet site – falsely intimidated through e-mails he was modelling agent who could assist with modelling career – met at bar and went to office after drinking – penile / vaginal intercourse – towards top of lower band of mid-range – not opportunistic Second appeal <i>Muldrock</i> error

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65.	Bellchambers [2011] NSWCCA 131	s.61l s.61l s.61l s.61l	PG	4y 5y 7y NPP 4y 6m 7y NPP 4y 6m <u>Total:</u> 10y NPP 7y	AA 3y NPP 2y 4y NPP 2y 4y NPP 2y 5y NPP 3y <u>Total:</u> 7y NPP 5y	Nil	SNPP 7 years In long-term relationship with complainant and had child – relationship broke down – offences took place over three year period – assaulted complainant in her home – vaginal intercourse – offences substantially below mid-range. Good character – special circumstances.
66.	Ollis (28) [2011] NSWCCA 155	2 x s.61l s.61l Detain with intent to have sexual intercourse	VG	5y NPP 4y 6y NPP 5y FT 12m <u>Total:</u> 6y NPP 5y 6m	AA to adjust degree of accumulation <u>Total:</u> 6y NPP 5y	driving offences	SNPP 7 years Sexually assaulted 17y female Japanese student on train in toilet – cunnilingus, fellatio and penile/vaginal intercourse – detained in toilet for 30 mins – at or close to mid-range
67.	Badans [2012] NSWCCA 97	s.61l	VG	3y NPP 1y	AD		SNPP 7 years Acquaintance of complainant – both attended party at friend's house – complainant under influence of alcohol and drugs – asleep in bedroom – awoke to find offender having sexual intercourse with her – thought at first that it was her ex-boyfriend with whom she had reunited earlier in evening – offender told her to “stay there, shut up” and to be quiet. Intellectual disability - reduced moral culpability – intellectual capacity at lower 5% of population – illiterate – poor understanding of consent and social situations.

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68.	Norman [2012] NSWCCA 230	3 x s.61I	VG	<u>Total:</u> 7y 6m NPP 4y 6m	AD	Nil	SNPP 7 years in relation to 2nd and 3rd offences Rape in marriage – married from 1995-2009 – sexually assaulted complainant in 2002, 2004 and 2005 – during consensual sexual activity forced anal sex upon complainant - degrading and serious form of sexual assault – aware complainant subjected to forced anal intercourse when younger' - no humiliating threats or insults - opportunistic - each episode not 'unduly lengthy in duration' ADHD - Asperger's syndrome - struggled emotionally and socially
69.	Stewart (21) [2012] NSWCCA 183	s.61I Sched: Mal damage	PG (25%)	4y 6m NPP 2y 8m	AD	Breached interstate suspended sentence	SNPP 7 years Angered at complainant ending de facto relationship – smashed complainant's phone – forced complainant on to lounge and digitally penetrated her – complainant struggling Difficult childhood – mental problems – intoxicated and not taking medication at time of offence
70.	NM [2012] NSWCCA 215	2 x s.61I 2 x s.61I s.61I	VG	7y NPP 5y 8y NPP 5y 6m 8y NPP 5y <u>Aggregate</u> 9y 6m NPP 6y 6m	AA 4y NPP 3y 5y NPP 3y 6m 5y NPP 3y 6m <u>Total</u> 5y NPP 3y 6m		SNPP 7 years Visited estranged female partner at her residence at her invitation for sexual intercourse – subsequently forced penile/vaginal and penile/anal intercourse against her consent

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71.	Dawson (55) [2013] NSWCCA 61	2 x s.61I 2 x s.61I s.61M(1)	PG (25%)	5y NPP 3y 7y 6m NPP 5y 3y NPP 2y <u>Total:</u> 9y NPP 6y 6m	AA 5y NPP 3y 7y 6m NPP 4y 6m 3y NPP 2y <u>Total:</u> 9y NPP 6y	BE, assault - no offending within last 6 years.	SNPP 7 years Assaulted niece aged 16y – 3 counts of digital penetration, 1 count of penile penetration Intellectual disability – special circumstances – cannabis abuse for many years.
72.	Egan (28) [2013] NSWCCA 196	s.61I AOABH AOABH Act with intent to pervert course of justice	PG (10% on appeal) PG (25%)	22m – suspended 22m - suspended 22m - suspended 13m - suspended	Crown AA 2y 8m NPP 2y 10m 1y 9m 2y 6m NPP 1y <u>Total:</u> 4y 2m NPP 2y 8m	nil	SNPP 7 years Relationship with complainant ended but continued to share house – entered complainant's bedroom and forced fingers into anus – punched her repeatedly to head and face – continued assaulted by forcibly yanking complainant's neck and choking – fabricated e-mails to undermine credibility of complainant – sexual assault at low end of seriousness Struggling with mental health problems at time of offending – excellent prior character – several years' service in navy – evidence of rehabilitation
73.	Abdul (21) [2013] NSWCCA 247	s.61I	VG	9y 4m NPP 7y	AD	poor record	SNPP 7 years Sexually assaulted female acquaintance in motel room – after struggle forced penetration from behind
74.	Doe [2013] NSWCCA 248	s.61I 3 x s.61I s 61L	VG	11y NPP 8y 10y NPP 7y 3y NPP 2y (all concurrent)	AD		SNPP 7 years Female walking alone on street at night to friend's house – offender standing on street then walked along with complainant – did not know one another – complainant tried to get away – forced complainant into secluded area – digital penetration – anal and penile penetration.

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75.	Martin (47) [2013] NSWCCA 253	s.61I	VG	9y NPP 7y	AD		SNPP 7 years Assaulted complainant believing she had been involved in a drug deal gone wrong and in which offender had lost money – drove complainant to secluded area – penile penetration. Aboriginal male – troubled upbringing.
76.	Simpson (42) [2014] NSWCCA 23	s.61I AOABH Sched: s.61I	PG (15%)	7y 6m NPP 5y FT 18m <u>Total:</u> 8y 6m NPP 6y	AD	breached bond – record for violence	SNPP 7 years Assaulted female domestic partner by punching and biting and pulling hair – made threats to kill and sexually assault – forced complainant on to bed and twice forced fingers into vagina – humiliating and degrading accusations – verbal and physical abuse continued until morning – impulsive offences
77.	Greenwood (36) [2014] NSWCCA 64	s.61I s.61L	VG	4y 6m NPP 3y 4m 12m FT (concurrent)	AD	Breached bail – nil other matters	SNPP 7 years Sexually assaulted 18y goddaughter of friend who was passed out from intoxication in friend's car – performed cunnilingus – touched left breast - took advantage of vulnerability – below mid-range – opportunistic offences over short period of time
78.	Aslan (35) [2014] NSWCCA 114	s.61I 2 x s.61I AOABH Sched: 4 sexual offences	PG (25%)	6y 9m NPP 4y 6m 4y 6m NPP 3y 1y 6m <u>Aggregate</u> 9y NPP 6y	AD	Significant record	SNPP 7 years Sexually assaulted 35y female stranger walking between hotels – assault included fellatio, cunnilingus, attempted penile penetration and digital penetration – struck complainant to mouth as she tried to escape Highly dysfunctional childhood – brain damage from accident – drug abuse
79.	Kanchitanon [2014] NSWCCA 204	s.61I s.61L	VG	4y NPP 2y 6m 4m (concurrent)	AD	Nil	SNPP 7 years Sexually assaulted female who came to work in offender's restaurant – pushed offender against bench and forced digital vaginal penetration for about 1 minute.

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80.	Tonari (28) [2014] NSWCCA 232	s.61I 2 x s.61I 2 x s.61I 2 x s.61L	VG (see facts)	<u>Indicative:</u> 1y 6m NPP 1y 2y 8m NPP 2y 3y 4m NPP 2y 6m 1y / Bond <u>Aggregate:</u> 4y NPP 2y 6m	Crown AD	Nil	SNPP 7 years Offender on working visa from Japan – friendly with 29y female student from Japan – at complainant's home sleeping on couch – complainant woke to find offender on top of her – fellatio and penile-vaginal intercourse – punched complainant when she screamed – threats of violence - spontaneous offence – mid-range – home of complainant. Strong subjective case – obsessive compulsive disorder. Sentence lenient however CCA declined to intervene. Originally convicted of offences under s.61J – on appeal Court substituted verdicts of s.61I and remitted matter for sentence
81.	Nand [2014] NSWCCA 293	2 x s.61I	PG (12.5%)	10y 6m NPP 7y 6m <u>Total:</u> 11y NPP 7y 6m	AD	Breached parole for sexual offences	SNPP 7 years Sexually assaulted 18y female stranger unconscious at railway station – both intoxicated – forced fellatio – vaginal penetration – used phone to record offence
82.	Pasoski [2014] NSWCCA 309	5 x s.61I 2 x AOABH	VG	<u>Aggregate:</u> 5y 6m NPP 2y 9m <u>Aggregate:</u> 4y 11m NPP 2y 5.5m	Conviction AA 2 x s.61I offences quashed <u>Aggregate:</u> 4y 11m NPP 2y 5.5m		SNPP 7 years Offences committed against female partner – during argument kicked complainant in back of legs – next morning slapped her face in front of daughters causing her to fall to ground – ten days later forced sexual intercourse five times -

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
83.	Ahmu (27) [2014] NSWCCA 312	2 x s.61I 5 x s.61I 2 x s.61I 5 x s.61I s.61I 2 x indecent assault	VG	3y 6m NPP 2y 4y 6m NPP 2y 6m 5y NPP 3y 5y NPP 2y 6m 6y NPP 3y FT 12m <u>Total:</u> 7y NPP 4y	Crown AA 3y 6m NPP 2y 4y 6m NPP 2y 6m 5y NPP 3y 5y NPP 2y 6m 6y NPP 3y FT 12m <u>Total:</u> 9y 6m NPP 6y 6m	Nil	SNPP 7 years Offences took place on one evening - committed upon female partner in context of an ongoing, relatively violent domestic relationship – complainant eight weeks pregnant - threat to kill – complainant pleaded to stop – committed in presence of 2y son - sexual acts accompanied by humiliating and degrading conduct – digital/vaginal - penile/vaginal – cunnilingus – fellatio. Good character - schizoaffective disorder - major depression – family support – good references
84.	Taleb (20) [2015] NSWCCA 105	s.61I s.61L s.61L	VG	6y NPP 3y FT 12m FT 20m (concurrent)	AD	nil	SNPP 7 years Took 17y female acquaintance on drive to river – sucked complainant hard on neck causing bruise – exposed complainant's breasts then sucked and licked with force – later in car forced digital penetration Suffered considered pain from cerebral palsy
85.	Ewen (35) [2015] NSWCCA 117	s.61I s.61I Supply amphetamines	VG PG	8y NPP 6y 10y NPP 6y FT 12m <u>Total</u> 12y NPP 8y	AD	Lengthy	SNPP 7 years Sexually assault at home of acquaintance in bathroom – forced fellatio – vaginal / penile intercourse – supply complainant with amphetamines

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86.	Jeffreys (53) [2015] NSWCCA 132	s.61I	VG	3y 8m NPP 1y 8m	Conviction AD		SNPP 7 years Sexually assaulted 29y niece – returned to offender's unit – intoxicated and sleeping – awoke and felt as if someone had had sex with her – confronted offender who told her she had consented.
87.	Cowling (22) [2015] NSWCCA 213	s.61I s.61L	PG (25%)	<u>Indicative</u> 3y NPP 2 y 1y 4m <u>Aggregate:</u> 3y 6m NPP 2y 5m	AA <u>Indicative:</u> 2y 3m NPP 1y 5m 9m <u>Aggregate:</u> 2y 4m NPP 18m	Robbery	SNPP 7 years Sexually assaulted 20y friend while she was sleeping on lounge after drinking at friend's house – cunnilingus and sucked breast – lower end of scale of seriousness – no violence, coercion, threats or intimidation Difficult childhood – drug and alcohol addiction – difficult to assess rehabilitation prospects
88.	Lee (60) [2016] NSWCCA 66	2 x s.61I s.61I	VG	<u>Indicative:</u> 8y NPP 5y 4m 7y 9m NPP 5y 2m <u>Aggregate</u> 11y NPP 7y 6m	AD	Priors for sexual offences	SNPP 7 years On three different occasions picked up intoxicated males from public areas with offer of lift home – fellated complainants who were unconscious or near unconscious – mid-range offences
89.	Bullock (18) [2016] NSWCCA 131	s.61I	PG (25%)	6y NPP 3y 6m	AA 5y NPP 2y 6m	Nil	SNPP 7 years Offender and female complainant friends and socialised - vaginal penetration – complainant intoxicated – used physical force to overcome resistance – ignored screams and pleas to stop. Youth – immaturity – remorse

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
90.	Darby (35) [2016] NSWCCA 164	s.61I s.61I s.61N(2) s.61L	VG	<u>Indicative</u> 3y NPP 1y 6m 3y 6m NPP 2y 6m 9m <u>Aggregate:</u> 4y NPP 2y	Conviction AA: <u>Indicative</u> 3y NPP 1y 6m 3y 6m NPP 2y 6m Conviction quashed <u>Aggregate:</u> 3y 6m NPP 1y 9m	Domestic violence offences	SNPP 7 years Company executive had drinks with employee from same building at pub – returned to office – continued sexual activity after becoming aware complainant not consenting – cunnilingus – digital penetration – used complainant's hand for masturbation
91.	Jonson [2016] NSWCCA 286	s.61I s.61I s.35(2)	VG	<u>Indicative</u> 7y NPP 5y 6y NPP 4y 3m 4y NPP 2y 9m <u>Aggregate:</u> 9y NPP 6y 5m	AD		SNPP 7 years Complainant and offender in abusive domestic relationship over many years – on one occasion offender slapped complainant to head causing perforated eardrum – on separate occasion forced anal and oral sex - no error in finding fact that offences committed in home of complainant an aggravating factor

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
92.	Rosenburg [2016] NSWCCA 292	s.61I s.61I s.61I 3 x s.61L	VG	<u>Indicative</u> 8y NPP 6y 6y NPP 4y 6m 5y NPP 3y 9m 9m / 1y / 1y 3m <u>Aggregate</u> 11y NPP 8y 3m	AD	Includes serious sexual offences	SNPP 7 years Intoxicated female waiting for friend to pick her up from city – approached by male stranger – touched vagina outside underwear – followed complainant into park – further indecent touching, forced oral and anal intercourse and cunnilingus – anal intercourse well above mid-range Prospects of rehabilitation very poor – risk of re-offending high
93.	Mol [2017] NSWCCA 76	5 x s.61I 6 x s.61L	VG	<u>Aggregate</u> 14y NPP 10y	AD	Nil	SNPP 7 years Contacted three teenage complainants via advertisements they had placed on website “Gumtree” seeking casual work - recruited complainants to work for him as artist’s models - invited complainants to his “professional art studio” - each subjected to unwanted sexual contact – touched breasts - cunnilingus – digital penetration. Character – led exemplary life as family man and art teacher
94.	Sharma (28) [2017] NSWCCA 85	2 x s.61I AOABH s.61L Sched: 61L	PG (5% on appeal)	<u>Indicative</u> 6y 6m NPP 4y 4m 8m 20m <u>Aggregate:</u> 8y NPP 5y 6m	AA <u>Indicative</u> 5y 8m NPP 4y 11m 1y 10m <u>Aggregate:</u> 7y 4m NPP 5y	Breached bond for indecent assault	SNPP 7 years Assaulted female tourist he had met that evening and was sleeping on his couch – pinned complainant down with knees, attempted to kiss, touched breasts and moved hand towards erect and uncovered penis – several days later sexually assaulted second female tourist staying in apartment – licked vagina and digital penetration – below mid-range Small adjustment to sentence for psychological disorder – genuine remorse

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95.	Day [2017] NSWCCA 192	s.61I	VG	5y 9m NPP 3y	AD	Indecent assault – alcohol related assaults	SNPP 7 years Entered bedroom mistakenly thinking it was bedroom he shared with partner – had penile intercourse with sleeping friend of partner – made no attempt to obtain consent - reckless as to consent and identity of female – intoxicated – just below mid-range
96.	WAP (22 at offence, 46 at sentence) [2017] NSWCCA 212	s.61I s.61I s.97 Sched: s.61I	PG (10%)	<u>Indicative</u> 8y 6y 3y <u>Aggregate</u> 10y NPP 6y	AD	Extensive – agg sexual assault, armed rob (1993) - BES, AOABH, escape custody, contravene domestic violence order, possess drugs.	1992 offences – cold case DNA resulted in apprehension in 2013 – knocked on door of 50y female seeking directions – complainant allowed offender into home – put on balaclava and showed knife – vaginal and anal penetration, fellatio – took \$100
97.	Afghan-Baig (40) [2018] NSWCCA 15	3 x s.61I 3 x s.61L s.61L	PG (15%)	<u>Indicative:</u> 5y NPP 3y 7m 5m <u>Aggregate:</u> 6y NPP 3y 7m	AD	Nil	SNPP 7 years Owner / employer at bakery – two female complainants - while interviewing first complainant grabbed her breasts – invited female employee upstairs - grabbed and kissed complainant's breasts - vaginal-digital penetration three times – offence committed over 30mins - physical and economic power imbalance between offender and complainants - flavour of planning in repetition of modus operandi - repeated acts of sexual penetration against second complainant Good character – rehabilitation prospects – remorse
98.	Shortland (25) [2018] NSWCCA 34	3 x s.61I	VG	2y – suspended	Crown AA 2y NPP 15m	Minor	SNPP 7 years Assaulted female acquaintance and friend of offender's partner - grabbed complainant when she entered laundry – complainant slapped offender - penile-vaginal intercourse and fellatio – intoxicated. Absence of remorse - relatively good character

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99.	Dowd (19) [2018] NSWCCA 102	s.61I	VG	5y NPP 2y 6m	Crown AD	Nil relevant	SNPP 7 years Female complainant just turned 16y - penile/vaginal penetration – punched complainant in face when she asked him to stop and threatened to do so again – previously in relationship with complainant – complainant visiting offender - above mid-range objective seriousness. Drug and alcohol abuse – family support - maturity below chronological age – depression anxiety
100.	MM (17) [2018] NSWCCA 158	s.61I s.94	VG PG	 	Convicted at trial of s.61J – on appeal s.61I substituted 6y NPP 3y FT 1y 6m (concurrent)	record for violence	Female in her forties spent night drinking at hotel with offender and friends – left intoxicated with offender – agreed to kissing but refusing intercourse –forced penile intercourse in car park – took property from complainant's handbag – no planning – more serious range Tongan – no remorse – low prospects of rehabilitation
101.	McGrory [2018] NSWCCA 226	Att s.61I 2 x s.61I 2 x s.61I 4 x s.59 2 x s.323(a) - persuade witness	VG	<u>Indicative</u> 2y 6m 7y 6m NPP 5y 6m 5y 6m NPP 4y 18m / 9m 12m <u>Aggregate:</u> 9y 6m NPP 7y	AD	old offences	SNPP 7 years Sexually and physically assaulted female de facto partner over 24 hours – multiple sexual assaults - violent, sadistic and brutal - domestic violence – wrote two letters to complainant persuade her to give false evidence - high end of mid-range of objective seriousness No remorse – dim prospects of rehabilitation - dysfunctional background and upbringing - longstanding ongoing mental health issues – alcohol and drug abuse

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
102.	Wan (69) [2019] NSWCCA 86	4 x s.61I s.61I 8 x s.61L	VG	<u>Indicative:</u> 3y 6m NPP 1y 8m 4y NPP 2y 6m / 12m / 15m <u>Aggregate</u> 5y 6m NPP 2y 9m	Crown AA <u>Indicative:</u> 5y NPP 3y 3m 5y NPP 3y 3m 6m / 18m / 2y <u>Aggregate:</u> 8y NPP 5y	nil	SNPP 7 years Sexually assaulted 88y male friend in apartment of offender –complainant drugged and could not remember offences – intercourse involved fellatio of complainant's penis and thrusting of offender's penis into mouth of complainant – indecent assault included kissing, fondling, touching and ejaculating into complainant's mouth – complainant vulnerable because of age – acts videotapes Prior good character
103.	Brockie [2019] NSWCCA 120	s.61I s.61I	VG	4y 6y <u>Total:</u> 7y NPP 4y	AD		SNPP 7 years Sexually assaulted complainant whilst in shower - digital and penile penetration- complainant diagnosed with congenital deafness, cerebral palsy and cognitive impairment. Between low and mid-range objective seriousness
104.	Naveed (40) [2019] NSWCCA 149	s.61I	VG	9y NPP 6y 4m	AD	Nil	SNPP 7 years Uber (taxi) driver – assaulted intoxicated female passenger - purchased condoms and assaulted complainant in back seat.
105.	Ganji [2019] NSWCCA 208	s.61I	VG	5y NPP 3y	Conviction AD		SNPP 7 years Taxi driver - intoxicated female passenger – fellatio – pushed complainant's head down.
106.	Cordeiro [2019] NSWCCA 308	s.61I	VG	3y 6m NPP 2y 3m	AD		SNPP 7 years Complainant asleep – digital penetration Complainant an employee on boat owned and operated by applicant

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107.	Elwood (18) [2019] NSWCCA 315	s.61l s.66 certificate – contravene AVO Sched: Assault	PG (15%)	<u>Indicative:</u> 4y 2m NPP 2y 9m 10m <u>Aggregate:</u> 4y 6m NPP 3y	AA <u>Indicative:</u> 3y NPP 18m 9m <u>Aggregate:</u> 3y 2m NPP 1y 8m		SNPP 7 years In relationship with complainant – complainant indicated she did not wish to have sexual intercourse – digital–anal penetration. Aboriginal youth - intellectual disability CCA: error as to special circumstances
108.	Rahman (36) [2020] NSWCCA 13	s.61l Sched: s.61l	PG (25%)	6y NPP 4y 6m	AD	Nil	SNPP 7 years After drinking with fellow employees at restaurant convinced 24y female employee on tourist visa to accompany him home – complainant awoke to find offender making sexual advances – offender performed cunnilingus and penile / vaginal intercourse despite complainant saying no – opportunistic offence – slightly below mid-range Born in Bangladesh – intelligent and mature but intoxicated – out of character – genuine remorse – responsible prospects of rehabilitation
109.	DPP v Burton (61) [2020] NSWCCA 54	s.61l	PG	3y Community Corrections Order	Crown AD	Nil	SNPP 7 years Offender sexually assaulted 18y niece after offender's son's wedding – offender, complainant and family drinking in bar after wedding – offender took intoxicated niece upstairs to his room and laid her on bed – cunnilingus - kissed lips of vagina with his lips, not tongue, for 10-15 seconds – aware offender's wife and complainant's mother following them to room - spontaneous, impulsive and opportunistic offence committed while offender also intoxicated – immediate confession to police – reckless as to consent Resident of Western Australia On appeal – SJ erroneously took into account intoxication – whether abuse of trust – relevance of interstate offender to choice of non-custodial sentence - sentence lenient but Crown failed to establish Court should exercise discretion to vary sentence

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110.	Dabboussi (28 at sentence) [2020] NSWCCA 111	s.61l s.35(4) Sched: s.61l Assault Hinder police	PG (5%) PG (25%)	2y 10m NPP 1y 8m 2y 3m NPP 1y 4m <u>Total:</u> 2y 10m NPP 1y 10m	Crown AA 2y 10m NPP 1y 5m 2y 3m NPP 1y 4m <u>Total:</u> 3y 10m NPP 2y 5m	minor – breached conditional liberty	SNPP 7 years During paid session with sex worker inserted sex toy into complainant's vagina three times and anus once against express lack of consent by complainant – drug affected – offence committed in complainant's home – complainant called on friend to assist – below mid-range One year later involved in road rage incident – in confrontation with occupants of car pushed one occupant to the ground and stabbed second occupant in thigh – towards mid-range Long standing drug addiction – limited prospects of rehabilitation – lack of remorse On appeal – error in degree of concurrence
111.	Aliabadi [2020] NSWCCA 224	s.61l 2 x s.61L	VG	<u>Aggregate:</u> 4y 3m NPP 2y 10m	AD	Not mentioned	SNPP 7 years Met complainant through dating site – at home of complainant on first date squeezed complainant's breast through gap in dress and placed complainant's hand on erect penis – continued despite protests and digitally penetrated complainant for several minutes – just below mid-range No subjective features referred to Appeal: no error in assessment of objective seriousness
112.	Hewitt (21) [2020] NSWDC 566 Wilson SC DCJ	s.61l	VG	3y Community Corrections Order		nil	SNPP 7 years Digitally penetrated female friend while both lying on lounge at friend's house – complainant awake to feel penetration having not given consent – reckless as to consent – opportunistic – stopped immediately upon request - minimal harm Mental health issues impacting sentence – very good prior character – risk of re-offending virtually zero – excellent prospects of rehabilitation – Engineering student

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
113.	Francis (57) [2020] NSWDC 870 ML Williams SC DCJ	s.61I	VG	2y Community Corrections Order		Minor traffic offences	SNPP 7 years Offender and complainant both members of running group and attended organised run in country town – offender attended complainant's hotel room alone by invitation -complainant went to sleep and awoke in bed with offender who admitted cunnilingus had occurred for less than a minute – jury rejected consent had been given – not planned or organised – below mid-range Served in Australian navy for twenty years – prospects of rehabilitation very good - steps taken to deal with alcohol abuse – remorse - sexually abused at 15y – ASD
114.	Pratt (31) [2021] NSWCCA 76	Attempt s.61I Sched: Possess drug small qty	PG (25%)	6y NPP 3y 7m	AD	Produce child abuse. On parole.	Approached female complainant on crowded train-removed semi erect penis and testicles - grabbed complainant and pulled her face towards penis in attempt to force oral sex - complainant placed her right hand over her mouth and felt penis touch her hand – complainant screamed and pushed offender; other passengers intervened - influenced by drugs (ice) - offence came close to completion – unprovoked. Mental disorder – deprived background – <i>Bugmy</i> - special circumstances.
115.	Fisher (25) [2021] NSWCCA 91	2 x s.61I	VG	Community Corrections Order 3y.	Crown AA 5y NPP 3y	Nil.	SNPP 7 years Entered bedroom where complainant sleeping - oral and penile/vaginal intercourse – complainant consented under mistaken impression having intercourse with boyfriend (mistaken identity) - offender did nothing to identify himself - consciously deceived complainant – did not speak to complainant. No remorse or contrition - good work history - good character – engaged with three children. CCA: Error in taking into account applicant's self-induced intoxication in mitigation.

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116.	Shanmugam [2021] NSWCCA 125	2 x s.61I Attempt s.61I 2 x s.61KC(a)	VG	<u>Aggregate:</u> 5y NPP 3y	AD	Nil	SNPP 7 years Went back to home of complainant who was a work colleague/friend along with another female – all intoxicated – lay on complainant's bed between two women to sleep – when other female left room to use bathroom attempted penile-vaginal penetration – penile-vaginal penetration on two occasions – complainant froze and did not know what to do - pushed offender away multiple times. Good character – low risk re-offending.
117.	Ibrahim (43) [2021] NSWCCA 296	s.61I	PG (10%)	2y NPP 9m	Crown AD	Nil	SNPP 7 years Pharmacist / chemist – complainant aged 19 asked for morning after pill – digital-vaginal intercourse under guise of examination. Not planned; spontaneous. Prior good character - remorseful - excellent prospects of rehabilitation. CCA: NPP manifestly inadequate but not total term – decision not to exercise residual discretion to intervene.
118.	DE (37) [2021] NSWCCA 315	s.61I s.61L	VG	4y 9m NPP 3y 3m 15m (concurrent)	AD	Possess prohibited drug, larceny, break and enter offences, domestic violence offences, resist police.	SNPP 7 years Complainant asleep, woke up to find applicant in her bed performing digital penetration – incident occurred during a party. Significant intellectual disability – Aboriginal male – opportunistic, not planned – dysfunctional background (<i>Bugmy</i> applied).
119.	Kelly (19) [2022] NSWCCA 189	s.61I	VG	5y 9m NPP 3y 9m	AD	Nil	SNPP 7 years Met complainant and friends for first time at pub – accompanied them home and slept on lounge – next morning had intercourse with complainant sleeping in bedroom – pre-meditated although no real planning – well into mid-range No remorse or insight – guarded prospects of rehabilitation – onerous custodial conditions – prior good character On appeal: no error in assessment of objective seriousness – not manifestly excessive

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
120.	Ramsey (37) [2022] NSWCCA 197	s.61I 4 x s.61L	VG	<u>Indicative</u> 4y 6m 18m / 4m / 6m / 8m <u>Aggregate</u> 6y NPP 4y	AD	Drugs, breach AVO, destroy property.	SNPP 7 years Offences against 16y male – complainant lived with offender due to conflict with family –awoke to find offender performing fellatio, touching / rubbing complainant's penis – vulnerable complainant Special circumstances to assist rehabilitation – ADD and PTSD, difficult upbringing – some remorse.
121.	Harper [2022] NSWCCA 211	s.61I s.61I Common assault Intimidation	VG (PG)	<u>Indicative</u> 3y NPP 2y 5y NPP 3y 4m FT 6m FT 9m <u>Aggregate</u> 6y NPP 4y	AD	Sexual assault against same complainant	SNPP 7 years Offences against female partner - penile-vaginal intercourse and anal-vaginal intercourse while complainant told him to stop and that she was in pain - application of force to head and infliction of emotional distress. Very little remorse and insight
122.	Chia (56) [2023] NSWCCA 63	s.61I s.61I 4 x s.192E	VG PG (25%)	<u>Indicative</u> 4y NPP 2y 7m 6y NPP 3y 10m 3m-12m <u>Aggregate:</u> 7y NPP 4y 6m	AA <u>Indicative</u> 4y 6m NPP 3y 5y NPP 3y 6m 3m-9m <u>Aggregate:</u> 6y 6m NPP 4y 3m	Extensive record for fraud offences – offences breached conditional liberty	SNPP 7 years Struck up acquaintance with 21y female stranger in cathedral – told false story about losing belongings including identification – complainant gave offender \$2000 and \$500 cash and booked him hotel room – offender sexually assaulted complainant in room – forced digital and penile intercourse – no condom used and element of force transferred \$1500 from complainant's account – all offences mid-range Some remorse – born in Singapore On appeal: failed to consider sentence imposed at first trial

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123.	Packer (39) [2023] NSWCCA 87	3 x s.61I 3 x s.61I s.61I Attempt s.61I Sexual touching: s.91KC(a) Threat distribute intimate image: s.91R(2) Distribute intimate image: s.91Q(1) Record intimate image: s.91P(1) Threat distribute intimate image: s.91R(2)	VG PG (5%)	<u>Indicative:</u> 6y 6m NPP 4y 3m 7y 6m NPP 4y 11m 6y NPP 3y 11m 6y 10m NPP 4y 6m 1y 3m 1y 10m 1y 10m 1y 10m 1y 5m 3d <u>Aggregate</u> 12y 8m NPP 8y	Crown AA <u>Indicative:</u> 7y NPP 4y 6m 8y NPP 5y 2m 6y NPP 3y 11m 7y 2m NPP 4y 8m 1y 3m 1y 11m 1y 11m 1y 11m 1y 6m <u>Aggregate</u> 17y NPP 12y	Yes – no details. Convicted of offences 15m after arrest and while on bail for present offences: BE, kidnapping, aggravated attempts sexual intercourse without consent.	SNPP 7 years Offences against two female complainants from overseas on visas – complainants moved into respondent's home to work as live-in housekeeper - offences in respondent's home. Complainant NB: gave alcohol, penile-vaginal, fellatio on six occasions - offences accompanied by threats to disseminate covertly recorded video to complainant's parents overseas — sent video to person who knew complainant. Complainant FP: grabbed breasts, intercourse. Not satisfied of good prospects of rehabilitation or unlikely to re-offend - PTSD, depressive disorder, substance use disorder. CCA: SJ failed to give weight to significant emotional harm to NB (s 21A(2)(g) CSPA). Overall criminality high level – two complainants, number of offences, dissemination offences, period of offending, extent of physical and emotional abuse, particularly of NB. Special circumstances – first time custody.

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124.	Dedeoglu [2023] NSWCCA 126	s.61I s.61L s.61L	VG	<u>Indicative</u> 8y NPP 5y 6m 2y 9m <u>Aggregate</u> 8y 6m NPP 6y	AA <u>Indicative</u> 6y 12m 6m <u>Aggregate</u> 7y NPP 5y	Nil	SNPP 7 years Uber driver – drove 17y female complainant passenger home but while she was asleep in vehicle he drove her away to another location – assaulted complainant - complainant awoke to digital penetration and kissing by offender. Opportunistic. CCA: Sentence manifestly excessive.
125.	Kramer (26) [2023] NSWCCA 152	s.61I	VG	2y CCO	Crown AD	Nil	SNPP 7 years Met complainant through dating app - engaged in consensual sexual activity at home of offender – forced penile / vaginal intercourse – aware complainant had made clear several times she did not consent to intercourse – no violence or threats Prior good character – solid prospects of rehabilitation – mental health issues Held: error in finding objective seriousness just above low range – sentence manifestly inadequate but dismissed appeal in view of completion of community service hours
126.	R E (46) [2023] NSWCCA 184	s.61I s.61I s.61L	VG	<u>Indicative</u> 2y NPP 10m 1y NPP 5m <u>Aggregate</u> 2y 8m NPP 1y 1m CCO 3y	Crown AD		SNPP 7 years Male professional photographer committed offences against two young female models - complainant 17y: manipulated dildo in complainant's vagina during erotic photo shoot – complainant 26y: digital intercourse - no evidence offender was acting to satisfy a sexual gratification / motive, as opposed to educating the models in posing as he required. Deprived upbringing – highly unlikely to reoffend - family support – well-regarded by his community - health issues - throat cancer - uncertainty and anxiety with respect to progress of illness and treatment in custody.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
127.	EE [2023] NSWCCA 188	s.61I s.61 Assault	VG	3y NPP 2y Fine \$750	Conviction and sentence AD		SNPP 7 years Offences against former wife - engaged in anal intercourse after complainant reluctantly agreed - after a few minutes, complainant repeatedly told applicant to stop but he continued for some minutes, complainant told applicant he was hurting her, sobbing "rather hysterically" - had engaged in anal intercourse on prior occasions, complainant had told applicant she did not enjoy it and 'never wanted to do it again' - assault: pushed complainant out of car. CCA: SJ not satisfied on balance of probabilities applicant was not aware complainant might withdraw consent.
128.	Horne (42) [2023] NSWCCA 276	s.61I s.61I s.61L	VG	<u>Indicative</u> 3y 6m NPP 2y 4m 4y 6m NPP 3y 12m <u>Aggregate</u> 5y 3m NPP 3y 4m	AD	Aggravated acts indecency	SNPP 7 years Victim unconscious at her home when offences committed – offending discovered when search of applicant's apartment located USB storage device containing recording of applicant's acts – victim a former friend of applicant, unaware offending had taken place – digital, penile-vaginal penetration.
129.	Alenzi (38) [2023] NSWCCA 283	s.61I Sched: s.61I	PG (25%)	7y 6m NPP 5y	AD	Act of indecency	SNPP 7 years Approached female complainant on street in early hours of morning – complainant intoxicated and stranger – took complainant to nearby laneway and forced fellatio and penile/vaginal intercourse – reckless as to consent - above mid-range Difficult background On appeal: no error in consideration of subjective factors – not manifestly excessive

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
130.	Pender (42) [2023] NSWCCA 291	s.61I s.61I	VG	<u>Indicative:</u> 5y NPP 3y 5y 6m NPP 3y 3m <u>Aggregate</u> 6y NPP 3y 6m	AD	Lengthy - property and violence. On conditional liberty.	SNPP 7 years Assaulted female complainant in her home whilst visiting – known to each other - self-induced intoxication by drug methylamphetamine (ice) - oral intercourse (Count 1) and penile/vaginal intercourse (Count 2). <i>Bugmy</i> – Aboriginal male - early exposure to substance abuse, domestic violence, family neglect, childhood sexual abuse – alcohol and drug abuse.
131.	Mattiussi (26) [2023] NSWCCA 289	s.61I s.61I Intimidate with intent	VG	<u>Indicative:</u> 3y 6m NPP 2y 5m 13d 5y NPP 3y 6m 2y 6m <u>Aggregate</u> 7y 6m NPP 5y 3m 2d	AA <u>Indicative:</u> 3y 6m NPP 2y 5m 13d 5y NPP 3y 6m 2y 6m <u>Aggregate</u> 7y 6m NPP 5y 3m with revised commencement date	“Pattern of disobedience or disregard of the law”; Personal and domestic violence offences.	SNPP 7 years In relationship with complainant – oral and penile/vaginal intercourse - forcefully inserted dildo into complainant’s anus – offences took place after consensual acts - intimidation offence: accompanied complainant to remote bushland location where threatened to kill after she dug her own grave, and threatened that she would be cut into pieces with a chainsaw. Drug addiction, particularly methylamphetamine - no remorse - prospects of rehabilitation poor. CCA: Failure to backdate sentence.
132.	Stein (29) [2023] NSWCCA 324	s.61I s.61I	VG	<u>Indicative:</u> 5y NPP 3y 5y 5m NPP 3y 3m <u>Aggregate</u> 6y NPP 3y 7m	AD	Nil	SNPP 7 years Offences against female 16y female complainant during single incident – offender got into complainant’s bed - digital-vaginal penetration; penile-vaginal intercourse – complainant staying at friend’s residence – met offender for first time, offender visiting friend who lived there – offences not sophisticated - unplanned. Intellectual disability - Asperger’s, autism, depression, ADHD – disruptive childhood - good character.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
133.	Brannen (20) [2023] NSWDC 356 Tupman DCJ	s.61I	PG (25%)	2y Community Corrections Order		Nil	SNPP Continuation of initially consensual penile-vaginal intercourse in context of ongoing relationship between offender and 16y victim – accepted actual knowledge she had said stop but continued for a couple of minutes where ‘accidentally got caught up in the moment’ – no additional violence or callousness – equals in relationship despite age difference – spontaneous – nearly at bottom of range Excellent subjective features – almost immediate acceptance of responsibility – remorse – good character – offence out of character – excellent prospects of rehabilitation – low risk of re-offending – anticipated onerous custodial conditions Comment on sentence: non-custodial sentence unusual but not unique – JIRS stats show CCO imposed in 4% of 302 cases
134.	VR 20-21; 32-35; 43 at offences; 43 at sentence [2024] NSWCCA 91	12 x s.61I s.61N(2) s.166 Certificate 2 x s.61 Intimidation	VG	<u>Aggregate</u> 11y 3m NPP 7y 6m	Crown AA <u>Aggregate</u> 14y 6m NPP 10y	Nil	SNPP 7y Offences over 17 years (2003-2004, 2015-2017, 2020) - three complainants, two were ex-wives and third in serious relationship - offending of extreme nature involving significant degradation and humiliation, choking - motivated by irrational jealousy - exercised “coercive control” over each complainant – penile-vaginal, penile-anal, fellatio. CCA: Sentence manifestly inadequate - extremely grave objective circumstances.
135.	Jackson (62) [2024] NSWCCA 156	4 x s.61I	VG	<u>Aggregate</u> 3y 6m NPP 1y 10m	Crown AA <u>Aggregate</u> 6y NPP 4y	Not lengthy.	SNPP 7y Female complainant aged 19y – staying at respondent’s farm as a guest – offender entered complainant’s room, pulled off her pants and underwear by force while she said no and resisted - digital-vaginal penetration, cunnilingus, oral intercourse, penile vaginal intercourse - opportunistic – limited planning but aware of lack of consent - isolated isolation – age and power differential. Unremarkable childhood - no traumatic experiences - strong support from family and friends. CCA: Sentence manifestly inadequate. Special circumstances - some mental health issues - anxiety associated with separation from 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	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
136.	Cornish [2024] NSWCCA 177	2 x s.61I s.61 Sched: 2 x s.61I 2 x Intimidate	PG (25%)	<u>Indicative:</u> 4y 6m NPP 2y 6m 6m <u>Aggregate:</u> 6y NPP 3y	AD		SNPP 7y Offences committed on partner of 2-3 months – motivated by jealousy and possessiveness – grabbed and squeezed complainant by throat for 15 secs – towards lower end of range – next day made threats to complainant outside medical centre – next day attended complainant's apartment to collect possessions – forced digital intercourse twice, cunnilingus and penile penetration – cunnilingus just below midrange – penile penetration mid-range – unreasonable belief in consent – following day sent screenshot of PIN for complainant's apartment Mental health and Bugmy considerations On appeal: no error in consideration of subjective factors, Form one offences and objective seriousness
137.	Slater (34) [2024] NSWCCA 210	s.61I	PG (10%)	1y 11m NPP 1y 1m	AD	Fines for minor offences in Qld	SNPP 7y Digital-vaginal penetration whilst complainant was asleep after party – complainant woke mistakenly believing offender was her male companion – offender intoxicated – recklessness as to consent. Alcohol - good employment history – family support – active member of community - insight, remorse.
138.	Turner (31) [2025] NSWCCA 3	s.61I Sched: AOABH	PG (5%)	3y NPP 18m	AD	Record including minor violence and imprisonment	SNPP 7y Casual sexual relationship with complainant over several years – during visit argued and grabbed complainant by arms causing bruising as she attempted to leave – forced penile/ vaginal intercourse – impulsive and relatively short duration – committed in home of complainant - just below midrange Limited insight – no remorse – profoundly deprived background where violence and sexual violence normalized – early substance abuse – intellectual disability – mental health issues – prospects of rehabilitation guarded On appeal: SJ erred in finding offence committed on conditional liberty – no lesser sentence warranted

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
139.	Brown [2025] NSWCCA 30	2 x s.61I	VG	6y NPP 4y concurrent	AD	Post-subject offences convicted of sexual touching, use carriage service to procure person under 16, use carriage service to menace harass.	SNPP 7y Female complainant – penile-vaginal intercourse and oral sex – complainant in bed at friends' home; applicant also residing in home - entered complainant's room, complainant repeatedly communicated lack of consent, saying "No", "please don't" - pinned complainant's wrists down – complainant fearful. Could not be said to be unlikely to reoffend in future - prospects of rehabilitation not good – no remorse or insight. CCA: SJ erred by making number factual errors – on re-sentence, no lesser sentence warranted.

Last updated: February 2025