Aggravated Sexual Intercourse Without Consent

Offences Committed before 1.2.2003 (SNPP)

Victim Aged 16 Years or Older

s.61J (NSW) *Crimes Act*

s 61J (1) Sexual intercourse with another person without consent of the other person knowing other person does not consent and in circumstances of aggravation

(2) Circumstances of aggravation:

(a) offender intentionally or recklessly inflicts actual bodily harm on victim or any other person who is present or nearby,

(b) offender threatens to inflict actual bodily harm on victim or any other person who is present or nearby by means of an offensive weapon or instrument,

(b1) offender threatens to inflict grievous bodily harm or wounding on victim or any other person who is present or nearby *(inserted 28.11.2018)*

(c) offender is in company of another person or persons,

(d) victim is under age of 16 years *(see separate table)*

(e) victim is under authority of offender

(f) victim has a serious physical disability

(g) victim has a cognitive impairment

(h) offender breaks and enters into any dwelling-house or other building with intent to commit any serious indictable offence *(inserted 1.1.2009)*

(i) offender deprives victim of liberty for a period before or after offence. *(inserted 1.1.2009)*

Maximum penalty: 20 years

Commenced: 17.3.1991

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	**Careless** NSWCCA 16.9.1993	s.61J	PG	MT 8y AT 2y 8m	AD	On bail and bond. Prior sex but not as serious	Penile / vaginal – complainant deaf and dumb - grabbed as walked from pub to park, dragged into bushes, punched about the body and face, severe injuries to the face, including broken jaw

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2.	**Ramey** NSWCCA 26.11.1993	s.61J (inflict abh)	VG	MT 5y 3m AT 1y 9m	AD		Penile / vaginal – met complainant at nightclub - drove her home, stopping three times to make aggressive passes – at home forced intercourse - slapped face when she protested - swelling and bruising to jaw throat and hand. Minor basketball player from USA
3.	**Lewis** NSWCCA 14.12.1993	s.61J (inflict abh)	PG	MT 6y AT 2y	AD	repeat minor	Penile / vaginal - complainant attacked as walking through the park - suffered ABH and left in dire circumstances
4.	**MacKenzie** (18) NSWCCA 15.12.1993	s.61J	PG	MT 5y 6m AT 3y	AD	nil	Cleaner in complainant's workplace attacked her when working back Powerful subjective case
5.	**Barden** (19) NSWCCA 7.3.1994	2 x s.61J (inflict abh)	PG	MT 3y AT 1y	AD	nil	When escorting complainant to a friend's house struck her with a beer can knocking her to ground and punching her several times - massive bruising to face - penile / vaginal, digital.
6.	**Day** (20) NSWCCA 21.7.1994	2 x s.61J (in company)	VG	MT 4y AT 15m	AD	nil	Offered complainant a lift home with co-offender – complainant punched
7.	**Baker** (21) NSWCCA 2.8.1994	2 x s.61J	PG	MT 7y 6m AT 2y 6m	AD	long	Gave complainant lift home from party – forced complainant into bushes with knife - oral, digital and penile intercourse - punched complainant in face.
8.	**Roberts** (27) NSWCCA 8.8.1994	5 x s.61J 4 x indecent ass	VG	MT 11y AT 2y (concurrent sentences)	AA MT 10y AT 3y	Prior convictions for serious sexual assaults	Penile / vaginal, oral and anal - used knife - attack started when 39y complainant arrived home, forced at knife point into house and sexually assaulted for hour and a half - left naked and bound.
9.	**Burns** (24) NSWCCA 21.9.1994	6 x s.61J	PG	MT 9y AT 3y	AD	long on recog for sex	Entered complainant's house through fly screen - struck sleeping complainant on head - complainant feigned unconsciousness, and subjected to episodes of penile / vaginal and oral intercourse.

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10.	**Berrigan** (38) NSWCCA 7.10.1994	2 x s.61J	VG	MT 5y AT 3y	AD		Met complainant in bar – drove complainant in van (voluntarily) to car park - ordered her into back of van and to remove her clothes - using condom had penile intercourse - placed tongue in vagina - placed hand on throat causing difficulty breathing - punched in eye, and forced to masturbate herself - took photographs, and put fingers and material down her throat.
11.	**Gebrail** NSWCCA 18.11.1994	s.61J	VG	MT 10m AT 5m	Crown AA MT 2y 3m AT 9m	record, but nothing significant	17y complainant went to offender's place to watch video - when she tried to leave he forced her to bedroom, sat on her on bed - placed pillow over face and punched her four times - threatened complainant and placed two fingers inside vagina.
12.	**B Singh** (28) **P Singh** (24) NSWCCA 16.12.1994	6 x s.61J 4 x s.61J	VG VG	MT 4y 6m AT 1y 6m MT 4y 6m AT 1y 6m	Crown AD	nil	Complainant previously in sexual relationship with BS – intercourse included digital, penile and oral - pre-meditated and well-planned – complainant suffered broken arm - offences videotaped.
13.	**Brennan** (36) NSWCCA 29.5.1995	10 x s.61J 3 x s.61L	VG	MT 3y 6m AT 2y 6m (concurrent sentences)	Crown AA MT 5y AT 2y	Priors - BES, assault and LMV - no sexual offences or gaol.	Broke into complainant's flat carrying butcher's knife - multiple sexual assaults over several hours – complainant assaulted and cut with knife.
14.	**Kenworthy** (44) NSWCCA 3.8.1995	s.61J (inflict abh)	VG	MT 3y AT 1y	AD	violence	Drove complainant home from function – complainant refused request for kiss and tried to escape - dragged back to car, undressed and sexually assaulted - penile / vaginal intercourse.
15.	**Sansom** (52) NSWCCA 28.8.1995	2 x s.61J	VG	MT 9y AT 3y	AD	Lengthy including violence	Assaulted 40y old acquaintance in home while children sleeping - threats to kill complainant and children - inflicted bodily harm by knife around neck.

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16.	**Carroll** NSWCCA 26.9.1995	s.61J s.61I	VG PG	FT 8y MT 4y AT 2y <u>Total</u>: MT 12y AT 2y	AA <u>Total</u>: MT 10y AT 4y	minor committed second count while on bail for first count	Sexual assault of acquaintance from hotel – hit complainant about head and threatened to kill - second count involved sexual assault of complainant in own home.
17.	**Bus** (20) **AS** (17) NSWCCA 3.11.1995	2 x s.61J s.61M 2 x s.61J s.61M	VG VG	MT 4y AT 2y (concurrent sentence) MT 2y 6m AT 2y (concurrent sentence)	AD AD	Minor – breached PD and recog Nil	Together sexually assaulted 17y complainant after party – complainant tied up - both fondled breasts, digitally penetrated complainant and made her fellate them B – dominant role - borderline mentally deficient.
18.	**Rivera** (21) NSWCCA 19.2.1996	2 x s.61J	PG	MT 6y AT 3y	AD	on bond for stalking and sexually assaulting another woman	Raped complainant twice after following her as she was walking home. Suffered brain damage in car accident and became sexually aggressive and dangerous when drunk.
19.	**Agafili** NSWCCA 1.5.1996	s.61J Sched s.61J s.90A	PG	MT 3y AT 2y	Crown AA MT 6y AT 2y	nil	Complainant picked up by two men outside nightclub - detained in car 6hrs - assault and threat to kill – taken to isolated spot and sexually assaulted - anal and penile / vaginal assault while hand around complainant's throat.
20.	**Smith** NSWCCA 27.5.1996	s.61J	VG	MT 4y AT 2y	AA MT 3y AT 1y		Threatened 63y complainant with carving knife - digital penetration.
21.	**Russell** (24) NSWCCA 21.6.1996	s.61J Attempt s.61J	PG	MT 4y AT 2y	Crown AA MT 5y 6m AT 2y 6m	extensive although no sexual offences - on parole	Forced entry into home of young female living alone - assaulted and threatened her - made multiple attempts to penetrate anally and vaginally, finally succeeding in former - choked complainant so hard she could not breathe. Aboriginal male
22.	**Pratt** NSWCCA 26.7.1996	s.61J (inflict abh)	VG	MT 4y 6m AT 18m	AD	Insignificant	Bus driver bashed complainant's head against bus floor before sexual assault.

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
23.	**Swan** NSWCCA 22.8.1996	s.61J (in company)	VG	MT 4y AT 2y	AA MT 3y AT 1y 6m	Criminal record	Female sexually assaulted by four offenders
24.	**H** NSWCCA 23.8.1996	s.61J (threaten inflict abh)	VG	MT 2y 6m AT 2y	Crown AA MT 4y AT 2y	prior assault on wife wife had applied for AVO	Cut telephone wires at estranged wife's house and broke in - penile and digital intercourse - pre-meditated.
25.	**Harrison** (22) NSW CCA 20.2.1997	4 x s.61J (threaten to inflict abh) s.80A(2) AOABH Sched: Assault	PG	MT 9y AT 3y	Crown AA MT 12y AT 4y	Qld - dishonesty and violence	Picked up complainant and friend hitch-hiking and drove them to secluded beach - assaulted complainant by placing string around throat and arm around neck - further bruises to both girls. Twelve months later picked up second complainant hitch-hiking - threatened complainant with knife and handcuffed her – fellatio - digital intercourse - forced complainant to insert own finger - various sexual and physical threats – more sexual assaults on beach offences committed over even hours. Two days later performed similar assaults on another woman in Queensland.
26.	**Miller** (35) NSWCCA 25.3.1997	6 x s.61J	PG	MT 7y 6m AT 3y 6m	AD	sexual priors on young persons, although no violence	Dragged 16y complainant walking alone along canal at 2pm into bushes and demanded money - assaulted, stripped, and jumper tied around eyes - multiple sexual acts, including fellatio. Pleaded guilty on second day of second trial.
27.	**Monks** (28) NSWCCA 5.8.1997	5 x s.61J 5 x s.61M(1)	VG	MT 9y AT 3y FT 2y (concurrent)	AD	long, although not serious	Complainant disabled with cerebral palsy - visited co-offender for weekend – co-offender arranged for offender to visit - complainant sexually assaulted over period of hours - "worst case"
28.	**Brarti** NSWCCA 28.10.1997	s.61J (inflict abh)	VG	MT 3y AT 1y	Conviction AD	offence breached AVO	Seriously assaulted ex-wife - scratched complainant on labia minora.
29.	**Currie** NSWCCA 31.10.1997	8 x s.61J	VG	MT 4y AT 3y	AD	Prior record	Entered flat of 19y female – threatened with knife – vaginal intercourse / digital penetration of anus / oral intercourse Aboriginal male - deprived background
30.	**Ryan** NSWCCA 3.11.1997	s.61J (inflict abh)	VG	MT 4y AT 2y	Conviction AD		Grabbed complainant in car park of nightclub as she approached sister's car - grazes to elbows - vaginal intercourse

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31.	**Truong** NSWCCA 8.12.1997	s.61J (in company)	VG	MT 18m AT 2y	Crown AA MT 2y 6m AT 2y	nil	Gave complainant lift home from nightclub - complainant consented to kissing, but resisted intercourse - bitten on mouth - penile / vaginal intercourse followed – co-offender attempted intercourse.
32.	**Cochrane** NSWCCA 7.10.1998	s.61J (use of knife / punching C)	VG	MT 4y 6m AT 18m	AD		Taxi driver took complainant to deserted area and unsuccessfully tried to push penis into mouth - punched complainant - cut complainant's pants with knife and forced vaginal intercourse - held knife at throat.
33.	**Guirgis** (31) NSWCCA 12.10.1998	s.61J (inflict abh)	VG	MT 1y 4m AT 2y	AD	nil	Picked up prostitute and forced her to have oral sex without condom
34.	**Wilson** (33) NSWCCA 20.11.1998	s.61J	VG	MT 6y AT 2y	AD	appalling record offence occurred in gaol	Sexual assault on fellow inmate - entered room with another inmate and punched complainant in stomach - forced anal intercourse - complainant punched and kicked by two other inmates.
35.	**S.P.M.** (34) [1999] NSWCCA 338	4 x s.61J (mal inflict abh)	VG	MT 18m AT 3y	Crown AA MT 2y 3m AT 2y 3m	Records for assaults although not serious. Offence reached AVO.	Aboriginal male sexually assaulted wife - penile intercourse, inserted metal bottle into vagina, then inserted boondi stick into vagina and anus. Marriage dysfunctional.
36.	**B M T** (48) [2000] NSWCCA 112	s.61J Sched: Mal damage	PG	MT 9y AT 3y	AD	long record, including sexual offences - on parole at time of offence	Permitted entry into house of ex-cell mate's de facto - used carving knife to subject complainant to series of degrading and violent sexual acts over three and a half hours - 3y son present during much of assault – after complainant escaped refused police entry
37.	**Maher** [2000] NSWCCA 147	s.61I s.61J	PG	FT 3y MT 5y AT 3y Total: MT 8y AT 3y	AD	On bail for first offence when committed second.	Broke into first complainant's caravan and forced penile intercourse - three months later broke into second complainant's caravan, assaulted her twice and forced penile intercourse.
38.	**Thomas** (38) [2000] NSWCCA 265	s.61J s.61L s.61	VG	MT 5y 3m AT 1y 9m (concurrent sentences)	AD	serving AR - priors for violence and sexual offences	Sexually assaulted 20y prisoner in gaol cell

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39.	**Kay** (45) [2000] NSWSC 716 Hulme J (2002) 132 A Crim R 72 [2002] NSWCCA 286	4 x s.61J (threat to inflict abh) Sched: 2 x s.61J 2 x s.61K	PG (10%)	20y NPP 15y	AD	minor sexual offences	Assaults committed on 8 complainants over 12 month period late at night - complainants threatened with knife and subjected to digital or penile penetration - offences premeditated and planned - observed by police stalking other women - no significant physical injuries inflicted. Significant risk of re-offending.
40.	**Smith** [2000] NSWCCA 468	s.61J	VG	MT 2y 6m AT 2y 6m	Conviction AD		Went to toilet block with acquaintance and started to kiss - unexpectedly punched complainant in face and continued assault as she tried to get up - placed finger inside vagina.
41.	**J C E** (42) (2000) 120 A Crim R 18 [2000] NSWCCA 498	2 x s.61J (under 16y)	PG	2y NPP 15m wholly suspended	Crown AD		Sexually assaulted daughter on two occasions - inserted finger in vagina, and licked vaginal area. Suspended from Pre-trial Diversion Scheme for unsatisfactory progress and breaches of undertaking - had made some efforts at program and was remorseful.
42.	**Pakistan** [2001] NSWCCA 49	s.61J s.61I	PG (during trial)	MT 21m AT 3y 3m	AD		Stayed at complainant's house - violent struggle ensued after she refused intercourse – complainant pretended to be dead and offender had penile-vaginal intercourse twice
43.	**Baker** (48) [2001] NSWCCA 96	s.61J	PG	MT 12y AT 4y	AD	extremely bad record for sexual assaults	Anally raped prostitute after threatening her with a knife, tying up her hands and gagging her.
44.	**Dawson (No.2)** (40) [2001] NSWCCA 186	2 x s.61J	VG	MT 4y AT 2y	AD		Forced ex-wife to have oral and vaginal sex using knife. Evidence of good character.
45.	**Andrews** (30) [2001] NSWCCA 428	s.61J AOABH Sched 3 x Supply	PG	6y NPP 4y 6m	AD	drug offences	After argument with de facto partner forced her to commit fellatio – threatened to slit throat – punched her to face four or five times

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46.	**RAP** (23) [2001] NSWCCA 471	s.61J(1)	VG	9y NPP 5y 6m	AA 8y NPP 5y	prior convictions for property, driving and violence offences	Sexually assaulted complainant while out riding on motorbike - injuries to back, thighs, genital and anal area. Protective custody - unhappy childhood - sexually assaulted over 2 years
47.	**Smith** (27) [2001] NSWCCA 475	s.61J (inflict abh) s.61I	VG	7y NPP 5y 9m FT 4y (concurrent)	AD	history related to alcohol abuse	Forced female acquaintance to have oral and anal intercourse - punched her in face – complainant of limited intellect. Married with 3 young children - alcoholic at early age - some evidence of rehabilitation
48.	**Galli** (2001) 127 A Crim R 493 [2001] NSWCCA 504	s.61J (serious disability and under care)	VG	7y NPP 5y 3m	AD		Sexually assaulted 26y resident of group home, with serious intellectual disability and under case of offender – complainant unable to speak or communicate in any way - offence discovered when complainant became pregnant.
49.	**AEM** (19) **KEM** (16) **MM** (16) [2002] NSWCCA 58	2 x s.61J Sched: S.61J 2 x s.61J Sched: 4 s.61J 2 x s.61J Sched: 2 x s.61J	PG (20%) PG (20%) PG (20%)	6y NPP 4y 5y 7m NPP 3y 6m 6y NPP 4y	Crown AA 13y NPP 9y 14y NPP 10y 13y NPP 10y	traffic, property and dishonesty offences - no violence - 2 recog not stated no similar offences - illegal use of motor vehicle	Two 16y females offered lift by respondents late at night - taken to house, separated and subjected to four hours of degrading sexual assaults - physical violence, threatened with knife and death threats AEM - adversely affected by father's death - Substance abuse KEM - affected by father's death - difficult schooling MM - cousin to co-offenders - difficult childhood after father left
50.	**Button** **Griffen** (2002) 129 A Crim R 242 [2002] NSWCCA 159	2 x s.61J (in company) 2 x s.61J (in company)	VG VG	7y NPP 4y 6y NPP 3y	Convictions AD		Part of group of 5 men who sexually assaulted female who accepted lift after party - B thrust penis in complainant's mouth while she was being held and later had sexual intercourse with her - G took complainant away and made her suck his penis and had vaginal intercourse

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51.	**SMR** (17) [2002] NSWCCA 258	2 x att s.61J s.61J (threaten to inflict abh) s.61N(2) s.61L	VG	FT 3y 8y NPP 4y FT 12m FT 2y (all concurrent)	Conviction AD		Broke into home of 82y female and sexually assaulted her – threatened complainant with knife
52.	**Marshall** (36) [2002] NSWCCA 311	s.61J (under 16y)	PG	6y 6m NPP 4y 9m	AD	child sexual offences	Plied young male complainant with alcohol - assaulted complainant in offender's home
53.	**Gorman** (2002) 137 A Crim R 326 [2002] NSWCCA 516	s.61J s.61I s.61I	PG (on appeal - 20%)	6y NPP 3y FT 5y FT 5y (all concurrent)	Crown AA 5y NPP 2y 6m 5y NPP 2y 6m 6y NPP 3y Total: 8y NPP 5y		Lured 16y old female to isolated area - handcuffed wrists - threatened with knife - fellatio and penile-vaginal intercourse. Low intelligence.
54.	**Szabo** (50s) [2003] NSWCCA 341	s.61J	VG	4y NPP 8m	Crown AD	Nil	Attacked estranged wife in bedroom and forced cucumber into vagina twice – vicious and violent attack Appalling health On appeal: sentence inadequate but appeal dismissed in exercise of discretion
55.	**Sheard** (29) [2003] NSWCCA 410	3 x s.61J 4 x s.61L	PG	10y NPP 7y 6m FT 3y (concurrent)	AA 9y NPP 6y 3m FT 3y (concurrent)	drug and dishonesty offences	Sexually assaulted girlfriend's sister sleeping in her own home – attempted to strangle – digital vaginal penetration – digital anal penetration – cunnilingus – rubbed penis on outside of vagina, placed complainant 's hand on penis and fondled complainant's breasts – forced complainant into a cupboard and threatened to kill - intoxicated

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56.	**McCann** [2004] NSWCCA 48	4 x s.61J s.61L	PG	Total: 8y NPP 4y 9m	AD	Not stated	(2001) Sexually assaulted overseas student, renting room in offender's apartment - while watching television offender repeatedly asked complainant to take off her clothes - complainant refused - offender told complainant she would have to move out that night if she did not comply with request - complainant went to her room to pack her bag - offender punched complainant, several times and committed oral, digital and vaginal intercourse.
57.	**Comert** [2004] NSWCCA 125	s.61J (mal inflict abh)	VG	8y NPP 6y	AA 6y NPP 4y 6m		(2000) Violent assault on wife in matrimonial home culminating in forced intercourse Error in finding offence aggravated because took place at home
58.	**Haines** (24) [2004] NSWCCA 295	s.61J (inflict abh)	PG	6y NPP 4y	AD	Criminal record – violence but no sexual assault – released from prison one week before offence	(2002) Sexually assaulted female friend at night in street – assault caused unconsciousness – threatened nearby resident Long history of drug and alcohol abuse – suffering schizophrenia and frontal lobe damage – not given medication on release from custody – combination of mental illness and alcohol and drug injection reduced culpability
59.	**Gill** (52) [2005] NSWCCA 308	s.61J Sched: s.61J Agg ind ass	PG	4y NPP 2y 6m	AD		(2001) Sexually assaulted 16y daughter with mental problems – only just re-entered daughter's life – penile-digital penetration Mental condition and long-term alcohol addiction
60.	**Baker** (67 at sentence) [2006] NSWCCA 135	s.61J	VG	6y 6m NPP 4y	AD	Lengthy – predominantly dishonesty offences	(1994) Sexually assaulted female acquaintance in her home – inflicted actual bodily harm Ill health – very elderly mother – delay caused by failure to appear
61.	**Ocek** (31) [2009] NSWCCA 42	s.61J s.61J	VG	8y NPP 6y 7y NPP 5y Total: 8y 6m NPP 6y 6m	AD	Record	(2002) Commenced consensual intercourse with acquaintance in boarding house room – forced attempted anal intercourse – threatened to cut throat – head butted and punched complainant's face – forced penis into mouth – detained complainant in room for some time Under influence of alcohol, cannabis and prescription drugs

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62.	**JT** [2012] NSWCCA 133	s.61J 2 x s.61J 3 x s.61J s.61J s.61I s.35 2 x s.35	VG	Indicative FT 6y FT 12y 12y NPP 9y 14y NPP 8y FT 5y FT 4y FT 3y Aggregate: 24y NPP 18y	AD	Violence – breached conditional liberty	(2000) Offences committed on 19y de facto over eight months – assaulted complainant with iron bar – forced mousse bottle into vagina – stabbed complainant with fork and chisel and forced intercourse – assaulted complainant with baseball bat and forced vaginal and anal intercourse – punched complainant causing broken jaw – assaulted complainant with iron bar and forced oral intercourse, fellatio and vaginal intercourse – deliberately cut leg of complainant with broken plate – assaulted complainant with hammer, bat and golf club forcing intercourse with electrical cord around neck Aboriginal male
63.	**Van der Baan** (25/26) [2012] NSWCCA 5	3 x s.61J 3 x s.61J s.97(1)	PG	FT 6y 9m 12y NPP 9y FT 18m Total: 17y 3m NPP 14y 3m	AA FT 6y 9m 12y NPP 9y FT 18m Total: 15y 9m NPP 12y 9m	Sexual offences committed at similar time	(1995-6) Arranged to meet 18y female acquaintance – walked complainant to park area and threatened her with knife – forced penile/vaginal intercourse, anal intercourse and fellatio – tied up complainant and stole property – 16m later grabbed 15y female walking along bridge in early evening – threatened with knife – forced fellatio, digital penetration and vaginal intercourse – each attack callous and degrading and caused significant psychological and physical injury Totality to sentence imposed for similar offences
64.	**Walsh** [2015] NSWCCA 83	2 x 61J 2 x Att s.61J	PG	Indicative: 7y NPP 5y 3m FT 3y Aggregate: 10y NPP 7y	AD	Dangerous driving cause death	(1991) Cold case DNA – arrested 2011 – 57y female babysitting at childrens' home - offender entered home through window – digital anal and vaginal penetration – attempted penile penetration – hit complainant in face – left after 15 minutes – opportunistic offence, no significant planning. Violent upbringing – employed.

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65.	**Dimian** (31 at offence) [2016] NSWCCA 223	s.61J Agg detain Sched: s.61J	PG	Indicative: 5y 6m 2y Aggregate: 9y NPP 6y	AA Indicative: 5y 6m 2y Aggregate 9y NPP 4y 6m	Subsequent sexual offences	(1993) Offered lift home to female met at bar – drove to bushland – pursued complainant as she tried to run away – sustained assaulted – digital penetration – penile penetration – upper range of seriousness Sentence accumulated to existing sentence - delay
66.	**Harris** (49 at sentence) [2017] NSWCCA 254	s.61J s.112(2) Sched: 3 sexual offences	PG	11y 3m NPP 8y 5m 6y NPP 4y 6m (concurrent)	AD	Lengthy - sexual assault, stalking, BES, assault, theft.	(1999) Broke into home of 22y female stranger – tied hands behind her back – fellatio, anal intercourse, attempted vaginal intercourse – took money from Poor rehabilitation and prospects of re-offending.
67.	**Porter** (29 – 44) [2019] NSWCCA 117	s.61J s.61J	PG (12.5%)	Indicative 7y 6y Aggregate: 8y NPP 4y	AD	committed similar offences year before and one month after these offences – these offences committed on bail – served 14y NPP 10y for other offences	(2002) Met complainant late at night and invited her home for coffee – after kissing and cuddling complainant decline sex – offender snapped, punched complainant in face and threatened with knife – complainant cut on hand during struggle – forced penile / vaginal intercourse and fellatio – threatened 13y daughter – bit breast – delay in reporting result of threats – element of aggravation maliciously inflicting ABH and threatening to inflict ABH Aboriginal male - difficult childhood – totality and risk of institutionalisation
68.	**Sims** (24 at offence) [2019] NSWCCA 232	s.33 GBH / GBH Att s.61J (ABH) Sched: Act of indecency	PG (12%)	Indicative: 13y 2m 7y 8m Aggregate: 15y NPP 10y	AD	nil prior – sexual offence of 15y girl subsequent	(1996) Soldier told lies to 19y female met in club about knowing her boyfriend – left club with complainant then struck her to face causing serious injury and unconsciousness – moved complainant to dark embankment and attempted to sexually assault her – attempt only due to early ejaculation – left complainant on embankment – arrested after DNA match many years later – some degree of planning on the night - martial arts trained - above mid-range seriousness No evidence of rehabilitation – some evidence of mental illness

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69.	**Carreno** (19 at offence; 42 at sentence) [2023] NSWCCA 20	s.61J (in company) s.61J (in company) s.112(3) Sched: s.148, 2 x s.61J	PG (10%)	Indicative 13y 6m 11y 8m 12y 7m Aggregate 16y NPP 12y	AD	Robbery, firearms, driving.	(1988) Home invasion with two co-offenders – stole various items - armed and wearing balaclavas - violent assault of male occupant - violent sexual assault of female occupant; digital and penile-vaginal penetration by applicant who was the first to assault complainant; further sexual assault by co-offender using barrel of gun; firearm pointed at head, head covered, hit to head number of times - both victims threatened with death unless they handed over money – victims' hands and ankles tied with electrical cord; mouths gagged – 2017 DNA linked to offence - gratuitous, opportunistic – intention on entering home was to steal. Guarded as to genuineness of remorse and prospects of rehabilitation. CCA: Applicant sought to establish manifest excess ground by reference to indicative sentence for s.112(3) offence.
70.	**PB** (27 at offence) [2025] NSWCCA 14	s.61J s.61L Sched: s.61J	PG (10%)	Indicative 9y 11m 1y 6m Aggregate 10y 6m NPP 7y	AA in part. Sentence backdated only.	Assault with intent to rape, indecent assault involving penetration and anal rape, sexual offences, assault, property offences.	(1995) Sexual assault on 18y female complainant walking home from work in early hours of morning – pushed into laneway – penile-vaginal penetration – grabbed neck and applied pressure - threats to harm – DNA link to offender made in 2014. Background of disadvantage including family violence, multiple assaults as a child - mental health. CCA: Error as to backdating of commencement of sentence.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
71.	**Brown (a pseudonym)** (35-47 at offending – 69 at sentence) [2025] NSWCCA 124	s.61J s.61J s.61J 2 x s.61M(2) 7 x s.61M(1) s.61O(2) 3 x s.61O(1A)	VG	<u>Indicative</u> 12y 8y 5y 1y – 1y 4m 1y – 2y 6m 1y 1y 4m – 2y <u>Aggregate</u> 16y NPP 11y	AA Indicative and aggregate sentences confirmed - backdated by 4 days		(1992-2003) sexually abused female niece aged 6-18y - s.61J offences committed on 16-17y complainant under authority - offender helped care for complainant – context of cult, spiritual abuse and financial abuse – penile-anal intercourse at complainant's home, fellatio in offender's vehicle and digital penetration - offences took place in religious context, complainant and family very involved in religion – offender held himself out as prophet and priest of religious order – told complainant she would be apprentice and become a prophetess which complainant believed until aged 32y - manipulated complainant using 'religious' position. Married with own children – self-employed - paedophilic disorder – ill-health - no remorse. CCA: Denial of procedural fairness at sentence – no lesser sentence warranted.

Last Updated: August 2025