

Break, Enter and Steal

Multiple Offences

s.112(1) (NSW) Crimes Act

s.112 (1) (a) break and enter dwelling-house or building and commit serious indictable offence

(b) commit serious indictable offence in dwelling-house or building and break out

Maximum Penalty: 14 years

| | NAME (age if known) | OFFENCE | PLEA | SENTENCE AT FIRST INSTANCE | RESULT ON APPEAL | SUMMARY OF RECORD | INVOLVEMENT & SUMMARY |
|----|---|--|------|------------------------------------|--|--|--|
| 1. | Granger NSWCCA 30.3.1998 | 2 x BES Sched: BES | PG | MT 26m 2w AT 9m 2w (+2m PSC) | AD | Prior convictions, including gaol for abduction - one offence committed on bail. | Broke into shops and stole property and money - damage done to stores - most property recovered Motivated by loan repayments. |
| 2. | Polden (20) | 3 x BES Sched: Mal Damage LMV | PG | MT 4y AT 3y | AA MT 1y 9m AT 2y 3m | Less serious – no gaol. | Male and female broke into Post Office and stole money and property - used oxyacetylene torch to open safe - both broke into residential property and stole \$44,000 worth of goods - P broke into shed on another occasion. P under the influence of M - motivated by desire to set up house and win custody of M's children. |
| | Mitchell (female) (25) NSWCCA 13.11.1998 | 2 x BES | PG | MT 3y AT 3y | MT 2y AT 2y | Lengthy convictions for dishonesty offences. | |
| 3. | Muir [1999] NSWCCA 71 | 8 x BES BE/I | PG | MT 4y AT 16m | AD Sentence severe but within discretion. | Priors for similar offences. | Comparatively young male committed offences around time being sentenced for similar offences - total property value \$114,000. |
| 4. | Maxwell (21) [1999] NSWCCA 298 | 4 x BES Sched: 20 offences | PG | MT 2y 3m AT 1y 9m | AD | Juvenile record for dishonesty and drug offences. | Male and co-offender broke into commercial and residential premises - \$59,000 property stolen - \$17,500 recovered. |

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| 5. | Garland (22) [1999] NSWCCA 410 | BES BE w/ I Sched: SMV Unlicensed driver | VG | MT 2y AT 18m (cumulative to existing sentence) | AA MT 18m AT 2y (to take into account existing sentence) | Criminal history for dishonesty and drug offences | Broke into business premises and attempted to break open safe - stole cash, tobacco and cigarettes - later broke into another business premises but could find nothing of value to steal. Young man with prospects of rehabilitation. |
| 6. | Scott (24) [1999] NSWCCA 434 | 3 x BES | 2 x VG PG | MT 3y 9m AT 2y | AD | Very bad record - 2 offences committed on bail. | Male broke into three premises over 18 months. |
| 7. | Johnson (26) [1999] NSWCCA 431 | 7 x BES Sched: 12 x BES 2 x BE/I 5 other offences | PG | MT 3y AT 3y | AD | Extensive criminal record including gaol for BES offences. | Sad and dysfunctional personal and family background |
| 8. | Ponfield (28) [1999] NSWCCA 422 | 3 x BES Sched: Possess CBI FTA | PG | 18m GBB 500h CSO | Crown AA MT 6m AT 18m | Priors for BES and other offences - later offence committed on bail | Male admitted breaking into two residential premises when found in car with stolen goods - some goods unrecovered and damage done to premises - admitted third offence one year later when found by police carrying stolen property in floral pillowcase. Good rehabilitation |
| 9. | Shaw (23) (2001) 121 A Crim R 25 [2001] NSWCCA 44 | 3 x BES Sched: 3 offences | PG (25% on appeal) | MT 4y AT 1y 4m | AA 4y NPP 2y 6m | Serving parole at time of offences - lengthy record | Broke into residential properties and stole \$3,448 worth of property - arrested after high speed car chase as unlicensed driver. Father of two children - early plea and admissions - evidence of good prospects of rehabilitation. |
| 10. | Johnston (25) [2001] NSWCCA 93 | 4 x BES Sched: 5 offences | PG | 4y NPP 3y | AD | Lengthy criminal record | Stole property from houses - bored and needed money to finance addiction. Protection because of threats. |
| 11. | Dunn (24-25) [2001] NSWCCA 134 | 5 x BES Sched: Stealing | Early PG | MT 2y AT 8m | AA 2y 8m NPP 20m | Offences committed while serving recognisance - lengthy record including BES | Broke into residential homes and stole property valued at over \$40,000 - damage done to homes. Long history of drug addiction NPP should be reduced to take into account existing sentence. |

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| 12. | Pyrda (21) [2001] NSWCCA 230 | 3 x BES Sched: 8 matters (incl. 3 x BE with intent) | PG | 3y NPP 16m | AA only to backdate sentence | Record for dishonesty - on parole when offences committed | Broke into 3 professional rooms and obtained \$140 cash. Failure to backdate. |
| 13. | Watego [2001] NSWCCA 236 | 3 x BES Sched: 5 offences | PG (25%) | 3y 9m NPP 2y 9m | AA 3y 9m NPP 2y | Long | Broke into 3 residential premises and stole electrical goods. |
| 14. | Andreassen [33] [2001] NSWCCA 246 | 2 x BES | PG (25%) | 3y 9m NPP 21m | AD | Lengthy record for dishonesty offences - on bond and bail at time of offences | Stole goods from two caravans. Itinerate lifestyle with significant drug and alcohol problems. |
| 15. | Carter [27] [2001] NSWCCA 245 | 2 x BES | PG (25% on appeal) | 5y NPP 3y | AA 4y NPP 2y 3m | Related to drug addiction | Broke into residential properties and stole goods - at second house struggled with occupant and attempted to escape. Protective custody - prospects of rehabilitation. |
| 16. | Tarpey (20) [2001] NSWCCA 300 | 6 x BES Sched: 8 offences | PG (25%) | 8y NPP 5y | AA 6y NPP 3y 9m | Previous record; heroin addiction | Broke into various premises stealing various property <i>Pearce</i> applied - youthful offender - multiple offences - reference to statistics |
| 17. | Barakat (35) [2001] NSWCCA 366 | 4 x BES | PG | 2y 7m 2w NPP 2y 3m | AD | Lengthy including similar offences | Broke into residential premises - no property recovered Unsatisfactory work record - Emotional instability and depression - Short parole period imposed to allow desired return to Lebanon. |
| 18. | Ravet (29) [2001] NSWCCA 535 | 2 x BES BE w/ I | PG | 2y NPP 12m 2y GBB | Crown AD (evidence of post- sentence rehabilitation) | Lengthy - on parole for robbery in company | Broke into shops outside trading hours - forced open security shutters. Some evidence of rehabilitation from drug abuse |
| 19. | Vitsos (32) [2001] NSWCCA 528 | 5 x BES | PG | 4y NPP 3y | AD | No real assistance although no real convictions since 1997 | Broke into and ransacked residential properties - total value of stolen property \$28,370 Some evidence of rehabilitation from drug abuse |
| 20. | Fitzgerald (26) [2002] NSWCCA 99 | 2 x BES Sched: 2 x Mal damage | PG (15%) | 3y 4m NPP 2y 6m | AD | Lengthy record | Broke into clubs with co-offender - \$70,000 damage to property. Diabetic |

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| 21. | Juricic (29) [2002] NSWCCA 170 | 4 x BES Sched: Possess prohibited drug | PG | 3y NPP 2y 3m | AD | Prior record in NSW and Vic - Breached bail and bond | Broke into home of elderly lady while she was absent in hospital - Also broke into motel, hotel and caravan park Erratic and tension filled childhood |
| 22. | Bolter (21) [2002] NSWCCA 417 | 2 x BES | PG | 4y NPP 3y | AD | Lengthy record - breached parole and bail | Female - Found in separate residential premises on two occasions - Stole money and jewellery |
| 23. | Challis (23-25) [2003] NSWCCA 48 | 5 x BES Sched: 8 x BES | PG | 6y NPP 4y 6m | AD | Breached parole, and 2 suspended sentences | Broke into commercial and office premises Little hope of rehabilitation |
| 24. | O'Heir (18) [2003] NSWCCA 126 | 10 x BES Sched: 4 offences | PG | 5y NPP 3y | AD | Breached parole and bail | Aboriginal with extremely deprived and disadvantaged childhood – Protective custody – Drug dependent |
| 25. | Clarke [2003] NSWCCA 184 | 2 x BES Sched: 9 offences | PG | 3y NPP 2y | AD | Significant record | Broke into factory and stole property – Took and used cheques – Broke into student dwelling and stole property Fresh evidence as to developmental disability and mild mental retardation not significant |
| 26. | Martin (19) [2003] NSWCCA 325 | s.112(1) 2 x s.112(1) s.114(1)(d) Larceny | PG (25%) | 3y NPP 12m FT 12m FT 12m FT 6m <u>Total:</u> 3y NPP 1y | AD | | Entered property with co-offender and stole money – broke into house of 82y female and stole \$151,000 from safe – broke into service station and stole cigarettes and caryard and stole clothing and computer – cut motor from boat |

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| 27. | Williams (32) [2004] NSWCCA 64 | 2 x BES s.113(1) s.113(2) Sched: 6 offences | PG (50% assist and plea) | s 11 Deferral sentence | AD | Extensive – stealing, drugs, dishonesty. | Broke into premises stealing office equipment to value of \$15k and \$1,300. Serious drug problem – advised would receive custodial sentence at conclusion of deferral period. |
| 28. | MJM (24) [2004] NSWCCA 66 | s.114(1)(d) s.112(1) 2 x s.112(1) s.112(1) 2 x s.112(1) 2 x s.112(1) s.112(1) s.33B(a) | PG (15%) | FT 9m 5y NPP 3y FT 3y FT 2y FT 18m FT 9m FT 6m FT 3y <u>Total:</u> 6y NPP 4y | AD | Habitual offender | All offences committed in 1995 on same day – broke into residential properties and stole property – s.114 offence committed when interrupted by neighbour and left premises – threatened police with tomahawk on arrest Aboriginal with deprived background |
| 29. | Parker (25) [2004] NSWCCA 115 | 2 x BES Sched (no details) | PG (20%) | 5y NPP 3y | AA 4y NPP 2y 6m | Not stated but had received bonds – breached bonds | Broke into two houses – one with female co- offender – no cash stolen No recollection of second count, due to heroin and Serapax – Dysfunctional family – remorse – undergoing drug treatment |
| 30. | Newman [2004] NSWCCA 113 | 3 x BES Sched: 2 x GIC | PG (12.5%) | 4y 11m NPP 3y 5m | AD | Appalling | Broke into dwelling houses stealing computer equipment, jewellery and household items to value of \$15,500 Deprived background – Drugs – Institutionalised. |

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| 31. | Argent (35) [2004] NSWCCA 270 | 8 x BES BE w/l Sched: 3 offences | PG (25%) | <u>Total</u> 5y 6m NPP 4y | AA 5y 6m NPP 3y 6m | Lengthy, including armed robbery – breached bail | Numerous BES of business premises around city – substantial money taken Unstable family background – Drugs |
| 32. | Henry (26-7) [2004] NSWCCA 306 | 2 x BES Sched: 6 offences | PG | 4y NPP 3y 3m | AA 4y NPP 2y 6m | Lengthy | Broke into jewellery shop and house – 3 further break and enter offences on Schedule Aboriginal with history of violence, disadvantage and early drug abuse |
| 33. | Bettler (45) [2004] NSWCCA 418 | 2 x BES Sched: 4 x similar offences | PG (25%) | 4y NPP 3y | AD | Lengthy – breached bond | Stole ATM with money from Clubs – planning – part of serious course of criminal conduct |
| 34. | Thompson (22) [2005] NSWCCA 41 | 6 x BES s.111(1) Sched 10 offences | PG (25%) | <u>Total</u> 5y NPP 3y 3m | AD | Priors for similar offences – breached conditional liberty | Broke into residential homes – offences committed over 3 weeks Protective custody – drug addiction - remorse |
| 35. | McRae (40) [2005] NSWCCA 13 | 6 x BES Sched: 6 x BES Att BES | PG (25%) | 8y 6m NPP 5y | AD | Lengthy - breached bond | Over 7 months broke into commercial premises after first disabling alarms – stole \$80,000 worth of property – \$49,000 property damage Depression and substance abuse after two motor vehicle accidents – Voluntary disclosure of guilt |
| 36. | Danuca (34) [2005] NSWCCA 45 | 7 x BES Sched: 11 offences | PG (20%) | 8y NPP 6y 6m | AA 8y NPP 5y 6m | Offences committed in Switzerland | Over 8 months broke into residential houses and stole portable safes - \$781,640 property stolen – received information from employee of NRMA Albanian Muslim – financial and familial hardship – some psychological problems from traumatic experiences in Kosovo |
| 37. | Saboune (40) [2005] NSWCCA 92 | 3 x BES | PG (25%) | 4y 6m NPP 2y 6m | AD | Lengthy – breached bond and parole | Residential break-ins – no property recovered – mid-range of seriousness Poor literacy – heroin addiction – married with children |

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| 38. | Johnstone (21) [2005] NSWCCA 80 | 4 x BES Sched 7 offences | PG (25%) | 5y NPP 3y 9m | AA 5y NPP 3y | Numerous – breached bail | Broke into houses to fund ecstasy habit Youth – turned to drugs following mother's death - now free of drugs – estranged from family |
| 39. | Stewart [2005] NSWCCA 290 | 2 x BES | PG | 3y 6m NPP 1y 6m | AA Sentence backdated 3m | 'Significant' – mainly related to drugs or getting \$ to fund addiction | Burglaries of residential premises (one in company) Drug free – special circumstances |
| 40. | Humphries (20) [2005] NSWCCA 305 | 3 x BES Sched: 7 similar offences | PG (25%) | 3y NPP 18m | AD | Minor | Broke into workshop and building sites with brother Good prospects of rehabilitation |
| 41. | Malik (34) [2005] NSWCCA 334 | 2 x BES | PG (50% with assist) | 18m NPP 15m | AD | Lengthy – including imprisonment | Broke into residential properties and stole personal property Longstanding addiction – no error in ratio of non- parole period to total sentence |
| 42. | MacBain (34/37) [2005] NSWCCA 358 | 2 x BES Sched: 7 offences | PG (25%) | 5y 3m NPP 3y | AA Only to backdate sentence | Extensive – priors for BES – Breached parole | Broke into business premises – 3 years later broke into home Protective custody – drug addiction |
| 43. | Lay (20) [2006] NSWCCA 45 | 18 x BES 2 x Att BES Larceny Sched: 12 similar offences | PG (see [27]) | <u>Total</u> 4y 3m NPP 2y 9m | Crown AA 5y 6m NPP 3y 6m | Criminal record – breached parole for AR | With co-offender broke into numerous business premises in rural areas – well planned offences – repeated offences – substantial value of property taken Unsettled background – considerable delay |
| 44. | Buddle (36) [2006] NSWCCA 236 | 7 x BES Sched: 3 x dispose stolen prop | PG | 6y NPP 4y | AD | Poor – breached parole | Broke into dwelling places and stole property. Drug addiction |

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| 45. | Ayoubi [2006] NSWCCA 364 | 12 x BES BE W/I Steal and attempt to break out Sched: 14 offences | PG (25%) | <u>Total</u> 5y NPP 3y | AD | Breached bonds for dishonesty offences | Broke into commercial premises and one residential premises – stole \$88,000 over 6 weeks – stayed in department store after closing and stole computer Psychological deficits resulting from serious assault |
| 46. | Shepherd (52) [2007] NSWCCA 166 | 2 x BES | PG | 3y NPP 2y 3m | AA 3y NPP 2y | Significant record | Broke into home and shed and stole property Drug and alcohol addiction – mental illness |
| 47. | Watts (23) [2007] NSWCCA 153 | 11 x BES 3 x s.113(1) Mal damage Sched: 23 Offences | PG (25%) | <u>Total</u> 11y NPP 7y | AA 8y NPP 6y | Record including BES | Offences committed over several months Low intellect – drug addiction |
| 48. | Arnold (34-5) [2007] NSWCCA 188 | 3 x BES Sched: 3 offences | PG (25%) | 5y NPP 3y | AD | Extensive criminal record – breached bond and bail | Female – broke into residential units and stole property – third offence committed 15 months later Drug and alcohol abuse |
| 49. | Lewins (36) [2007] NSWCCA 189 | 4 x BES Sched: 44 offences | PG | 10y NPP 7y | AA 8y NPP 5y 6m | Lengthy record for dishonesty offences – AR | Professional thieves stealing from commercial premises Parity |
| 50. | Curtis (33) [2008] NSWCCA 200 | 4 x BES | PG (25%) | 4y 9m NPP 2y 9m | AD | Lengthy - similar offences. | Broke into four residences over ten days – Stole money, jewellery, electronic equipment and firearms. Drug addiction. |
| 51. | Chandler (32) [2008] NSWCCA 240 | 12 x BES 2 x BE w/I | PG (25%) | <u>Total</u> 5y 6m NPP 3y 6m | AD | Extensive – similar offences – breached conditional liberty | Broke into residential properties and stole Asperger's, personality disorder and polysubstance abuse – co-operated with police |

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| 52. | Burnett (38) [2011] NSWCCA 276 | 3 x s.112(1) s.113(1) SMV Sched: 5 offences | PG (25%) | <u>Total</u> 5y 3m NPP 3y 11m 7d | AD | Breached conditional liberty – lengthy record | Broke into residential premises and stole property on two occasions – started to break into third residential property but just stole quad bike – broke into shop and stole property Drug addiction |
| 53. | McGoldrick [2012] NSWCCA 7 | 3 x BES Sched: Multiple offences | PG (25%) | 5y NPP 3y 9m | AD | Record – breached parole and bail | Broke into residential premises and stole property to fund drug addiction |
| 54. | Hernandez (37) [2013] NSWCCA 51 | 7 x s.112(1) s.113(1) Impair electronic communications Sched: 25 further offences | PG | <u>Total</u> 13y 6m NPP 9y | AD | Record in USA | Arrived from South America for short time – broke into fast food restaurants cutting cables and disabling alarms – stole \$136,351 cash – gambling problem |
| 55. | Morgan (29) [2014] NSWCCA 284 | 9 x s.112(1) s.91H(2) Sched: 16 related offences | PG (25%) PG (10%) | <u>Indicative:</u> 18m <u>Aggregate:</u> 11y NPP 6y 6m | AD | Driving offences | Broke into private homes and stole cash, jewellery and electronic goods – found in possession of 780 images and 41 videos of child abuse Funding drug abuse and gambling |
| 56. | Dickinson (28) [2016] NSWCCA 301 | 5 x s.112(1) Sched: 4 x BES Attempt BES | PG | <u>Aggregate:</u> 7y 6m NPP 5y | AA Commencement date changed - sentence confirmed. | Similar offences, assault officer. | Broke into houses - offences committed during day - two offences committed whilst owner at home - most homes ransacked – took money and jewellery – value around \$100k Difficult upbringing – drug abuse. |

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| 57. | Buddle (48) [2018] NSWCCA 35 | s.112(1) s.112(1) | PG | 3y 3y <u>Aggregate:</u> 3y 9m NPP 2y 8m | AD | lengthy record – breached parole for similar offences | Broke into home by removing external cladding and smashing gyprock – stole tools from shed – smashed way through gyprock into workshop and stole tools |
| 58. | Toman [2018] NSWCCA 51 | s.112(1) s.112(1) s.114(1)(c) Sched: 2 offences | PG (25%) | <u>Indicative</u> 3y 4m 3y 2y 3m <u>Aggregate:</u> 5y NPP 3y 9m | AD | Extensive - multiple BES. | Broke into two homes – took jewellery, electronic equipment – acted with co-offender – wore disguise / head covering - high degree of preparation and planning. Mental illness |

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