

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

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

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

**Maximum Penalty:** 7 years

NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
<b>Morgan</b> (31) <a href="#">[2003] NSWCCA 230</a>	s.114(1)(d) s.97(1) s.59(1)  Sched: 4 offences	PG (25% for plea and Fernando)	4y NPP 2y 6m  <u>Total:</u> 7y 6m NPP 6y	AA 3y 6m NPP 18m  <u>Total:</u> 6y NPP 4y	Extensive record – breached parole	Assaulted and robbed victim with co-offender – 3 months later entered premises and assaulted both occupants – prolonged attack Aboriginal offender with difficult background
<b>Martin</b> (19) <a href="#">[2003] NSWCCA 325</a>	s.114(1)(d) 3 x s.112(1) s.117	PG (25%)	FT 12m  <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
<b>MJM</b> (24) <a href="#">[2004] NSWCCA 66</a>	s.114(1)(d) 9 x s.112(1) s.33B(a)	PG (15%)	FT 9m  <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
<b>Hayes</b> (26) <a href="#">[2004] NSWCCA 156</a>	s.114(1)(d) s.61I s.61L  Sched: 3 offences	PG	FT 2y  <u>Total:</u> 12y NPP 9y3m (all sentences cumulative)	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

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
<b>Crowley</b> (21) <a href="#">[2004] NSWCCA 256</a>	s.114(1)(d) 2 x s.59(2)	PG (25%)	2y Bond  <u>Total:</u> 1y NPP 9m	Crown AD	Breached bond – lengthy record including imprisonment	With co-offender attempted to remove large television from wall in restaurant – involved in assault on two men outside Surf club
<b>Ibrahim</b> (35) <a href="#">[2005] NSWCCA 43</a>	s.114(1)(d)  Intimidation  Unauthorised possess firearm  3 x Supply cannabis leaf  Sched: 3 offences	PG (20%)	2y NPP 18m  <u>Total:</u> 4y 2m NPP 3y 9m	AA FT 18m  <u>Total:</u> 4y NPP 3y	Later offences committed on bail for first offences - lengthy record	Let into unit by victim's flatmate – woke sleeping victim and demanded money – threats made – stole wallet – on arrest found in possession of 0.73g cocaine and .22 semi-automatic handgun – two years later supplied undercover police officer with cannabis
<b>Diab</b> (32) <a href="#">[2005] NSWCCA 341</a>	s.114(1)(d) 2 x s.113(1)  s.117  Sched: Larceny	PG	FT 1y  <u>Total:</u> 6y 2m NPP 3y 7m	AD	Lengthy record	Entered or attempted to enter three commercial premises Gambling problem
<b>Smith</b> (32) <a href="#">[2005] NSWCCA 339</a>	s.114(1)(d)  Supply prohibited drugs  s.35(1)(b)	PG (15%)	3y NPP 1y  <u>Total:</u> 6y 6m NPP 4y	AA / Crown AA Sentence for s.114(1)(d) unchanged  <u>Total:</u> 5y 9m NPP 3y 9m	Record including imprisonment	Left 0.05g methylamphetamines at house for victim's mother – later returned and entered house through kitchen window – wrapped string around 14y female sleeping victim and applied significant force Drug addiction
<b>McNaughton</b> (33) (2006) 163 A Crim R 381 <a href="#">[2006] NSWCCA 242</a>	s.114(1)(d)  s.59	PG (15%)	FT 2y 2m  <u>Total:</u> 4y NPP 2y 6m	AD	lengthy	Attempted to steal money from amusement machine in holiday resort – threw coffee tin at manager attempting to stop offender

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<b>Collett</b> (20) <a href="#">[2009] NSWCCA 236</a>	2 x s.114(1)(d) s.97(1) s.117 Sched 3 offences	PG (25%)	17m NPP 9m  Total: 2y 9m NPP 18m	Crown AA Sentence for s.114 unchanged  Total: 3y 6m NPP 22m 15d		Forced entry into club with three other men by smashing window and stole alcohol – forced entry into second club by smashing glass door but took nothing – robbed newsagency Failed to give promised assistance
<b>Gill</b> (38) <a href="#">[2010] NSWCCA 236</a>	s.114(1)(d) s.112(2) 2 x s.195(1)(b) Sched: 4 x property damage by fire	PG (12%)	3y NPP 2y  Total: 8y 3m NPP 6y	AD	Lengthy record	Entered store after hours with co-offender who worked at store – stole \$16,890 from safe and damaged doors to simulate forced entry – later set fire to store causing extensive damage – two months later caused fire damage to council ticket box and shed containing building materials Chaotic childhood – alcohol and drug dependence
<b>Couch-Clarke</b> (19) <a href="#">[2010] NSWCCA 288</a>	s.114(1)(d) 3 x s.95(1) s.59 Sched: AOABH Affray	PG (25%)	FT 9m  Total: 4y 6m NPP 3y 6m	AA / Crown AA Sentence for s.114(1)(d) unchanged  Total sentence unchanged	Breached bonds – minor record	Entered hotel room with three others - assaulted and robbed teenage male occupants
<b>Roberts</b> (39) <a href="#">[2012] NSWCCA 232</a>	s.114(1)(d) Sched: 4 offences	PG (25%)	3y NPP 2y 3m	AD	Significant record for violence – breached AVO and four bonds	Intent to intimidate - during argument with long term partner produced tomahawk and refused to leave premises – punched victim and held blade to throat – mid range seriousness History of domestic violence in relationship with victim

**Last updated: 15.5.2017**

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