

Conceal Serious Indictable Offence

s.316 (NSW) *Crimes Act*

316(1) Concealing serious indictable offence

- (a) knowing or believing a serious indictable offence has been committed by another person, and
- (b) knowing or believing he or she has information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for that offence
- (c) fails without reasonable excuse to bring that information to the attention of a member of the NSW Police Force or other appropriate authority

Commenced 25.11.1990

Maximum penalty: 2 years

Amended 28.11.2018 to reword offence (essential elements unchanged) and change maximum penalty:

Maximum penalty

- (a) 2 years if maximum penalty for serious indictable offence is not more than 10 years imprisonment
- (b) 3 years if maximum penalty for serious indictable offence is more than 10 years imprisonment but not more than 20 years imprisonment
- (c) 5 years if maximum penalty for serious indictable offence is more than 20 years imprisonment

	Case (age if known)	Offence	Offence Concealed	Plea	Sentence	Appeal	Record	Facts
1.	Mastronardi (27) (2000) 111 A Crim R 306 [2000] NSWCCA 12	s.316 [2y] s.97(1) AR	AR	PG	3y Recog	Crown AA 1y Periodic Det 3y Periodic Det	nil	Took taxi with two acquaintances believing they would pay fare – during trip acquaintances produced knife and syringe and robbed driver – failed to report offence to police – next day took part in robbery of second taxi driver with same acquaintance – received money for drugs History of drug abuse – seriously assault in custody – difficult background

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

	Case (age if known)	Offence	Offence Concealed	Plea	Sentence	Appeal	Record	Facts
2.	Zreika (18) [2000] NSWCCA 75	s.316 [2y] s.319: Pervert course of justice s.322: Threaten witness	Robbery	VG	FT 3m MT 9m AT 15m FT 12m <u>Total</u> MT 1y 9m AT 15m	AD	Fraud and driving offences - on bail	Present during supermarket robbery and failed to give details to police – threatened girlfriend who knew of involvement in robbery – told another witness that he would be getting proceeds from robbery then later threatened witness he “would get her”
3.	Sidirourgos [2004] NSWCCA 274	s.316 [2y]	Manufacture comm qty methamphet	PG	8m NPP 4m	AD	Breached bail for similar offence	Travelled and entered house where drugs being manufactured with housemate – present but did not take part in activities – failed to report to police what he observed in house – would have understood true nature of activity because on bail for similar although unrelated offence Delay
4.	Cowen (32) [2008] NSWSC 104 Buddin J	s.316 [2y] Accessory after fact to murder	Specially agg detain for advantage	PG	18m GBB 9m PD		Minor	Female failed to advise police of involvement of de facto in forcible detainment of two adults – failed to disclose possession of handbag belonging to female victim – bottom range of gravity - acted out of loyalty to partner and emotional dependence Unstable and sexually abusive childhood – alcohol dependency – good character – remorse – good prospects of rehabilitation
5.	Podesta (45) [2009] NSWCCA 97	s.316 [2y] s.319: Pervert course of justice	Killing	VG	2y NPP 12m 2y 6m NPP 12m (concurrent)	AA 12m 2y 6m NPP 12m (concurrent)	Lengthy record including public justice offences	De facto partner found fatally stabbed after offender given information suggesting victim suffered from AIDS – son charged with killing – over three interviews gave police false information and omitted important facts – suggested female witness give false account – no threat or violence Female – history of drug abuse On appeal: maximum sentence for s.316 offences excessive

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6.	Casella [2019] NSWCCA 201	s.316 [2y]	Cultivate lge comm qty cannabis	PG (20%)	8m NPP 6m	AA 6m ICO	Drug cultivation offences	Winemaker used knowledge to provide assistance on funding, equipment and irrigation – became aware of cannabis plantation and failed to report offence – aware cultivation was sophisticated, extremely large scale and criminality of high order – motivation for concealment unclear – marginally above mid-range Community involvement and donations – deteriorating health of offender and daughter – good prospects of rehabilitation On sentence considered factors relevant to assessing objective seriousness of s.316 offence: at [20] On appeal: manifestly excessive

Last updated: Apr 2023

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