

## 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.	<b>Boyle</b> 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.	<b>MDW</b> (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.	<b>Munday</b> 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.	<b>Glen</b> (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.	<b>Hollis</b> (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.	<b>Byfield</b> (26) NSWCCA 21.4.1995	s.611	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.	<b>O'Rourke</b> (31) NSWCCA 25.7.1995 / 23.8.1995	s.611	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.	<b>Windle</b> NSWCCA 29.8.1995	s.611	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.	<b>McLawrence</b> (27) NSWCCA 28.9.1995	2 x s.611	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.	<b>Tolmie</b> (1995) 84 A Crim R 293	s.611	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.	<b>Da Silva</b> NSWCCA 30.11.1995	s.611	PG	MT 12m AT 1y 6m	AD	nil	Digitally penetrated 16y female asleep on lounge. Stable relationship and small child.
12.	<b>Pastovsky</b> NSWCCA 28.6.1996	s.611  Attempt s.611	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.	<b>Balfour</b> (28) NSWCCA 23.7.1996	s.611	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.	<b>Anderson</b> NSWCCA 30.10.1996	s.611	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.	<b>Weekes</b> (27) NSWCCA 28.2.1997	s.611  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.	<b>Wolff</b> (45) NSWCCA 7.7.1997	s.611	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.	<b>DAR</b> (15) NSWCCA 2.10.1997	s.611	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. Young aboriginal person.
18.	<b>Fordham</b> (42) (1997) 98 A Crim R 359 NSWCCA	3 x s.611	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.	<b>Radford</b> (28) NSWCCA 4.3.1998	s.611	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.	<b>May</b> (18) <a href="#">[1999] NSWCCA 40</a>	s.611	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.	<b>Karatas</b> <a href="#">[1999] NSWCCA 151</a>	4 x s.611	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.	<b>Carr</b> (24) <a href="#">[1999] NSWCCA 200</a>	s.611	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.	<b>Gust</b> (mid-40s) <a href="#">[1999] NSWCCA 265</a>	s.611	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.	<b>Smith</b> <a href="#">[2000] NSWCCA 148</a>	s.611	PG	MT 4y 6m AT 2y 6m	AD		Forced penile intercourse on female acquaintance. Aboriginal offender - remorse.
25.	<b>Orth</b> <a href="#">[2000] NSWCCA 126</a>	2 x s.611  Attempt s.611	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 - stripped her of clothes and attempted to penetrate anus.
26.	<b>Martin</b> <a href="#">[2000] NSWCCA 332</a>	3 x s.611	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.	<b>Dayeian</b> <a href="#">[2000] NSWCCA 348</a>	4 x s.611	VG	MT 2y AT 2y	AD	nil	Digitally penetrated wife anally and vaginally over 5m period. Suffering from various personality disorders - suicidal tendencies.
28.	<b>Upton</b> (2000) 116 A Crim R 298 <a href="#">[2000] NSWCCA 305</a>	611	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.	<b>MLW</b> (15) <a href="#">[2001] NSWCCA 133</a>	s.611	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.	<b>O'Brien</b> (29) <a href="#">[2002] NSWCCA 102</a>	s.611	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.	<b>Mitton</b> (48) (2002) 132 A Crim R 123 <a href="#">[2002] NSWCCA 124</a>	2 x s.611	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.	<b>Shepherd</b> (19) <a href="#">[2003] NSWCCA 9</a>	s.611	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 - intoxication a mitigating factor - early addiction - remorse
33.	<b>Davidson</b> (49) <a href="#">[2003] NSWCCA 11</a>	7 x s.611  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 involved in aboriginal community
34.	<b>Porteus</b> <a href="#">[2003] NSWCCA 18</a>	2 x 611	VG	4y NPP 18m	AD	Prior good character	Masseur sucked penis of two male patients on separate occasions
35.	<b>Baverstock</b> (50) <a href="#">[2003] NSWCCA 228</a>	6 x 611  Sched: 3 x 611 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.	<b>G.A.R.</b> (50) <a href="#">[2003] NSWCCA 224</a>	611	VG	6y NPP 4y 6m	AD	Lengthy – long periods of imprisonment	Sexually assaulted recently divorced wife – element of violence
37.	<b>Hayes</b> (26) <a href="#">[2004] NSWCCA 156</a>	s.114(1)(d)  s.611  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.	<b>Davis</b> <a href="#">[2004] NSWCCA 298</a>	2 x s.611	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.	<b>Dallas</b> <a href="#">[2004] NSWCCA 316</a>	611  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.	<b>Kershaw</b> (39) <a href="#">[2005] NSWCCA 56</a>	s.611  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.	<b>Perrin</b> (18) <a href="#">[2006] NSWCCA 64</a>	s.611  Sched: Agg ind assault	PG (less than 25%)	6y NPP 4y	AA 4y NPP 2y	Nil	<b>SNPP 7 years</b> Sexually assaulted 18y female acquaintance – penile intercourse – everyone intoxicated – later exposed penis near complainant's face Prior good character – protective custody
42.	<b>Rigby</b> (23) <a href="#">[2006] NSWCCA 205</a>	4 x s.611	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.	<b>Walker</b> <a href="#">[2006] NSWCCA 228</a>	3 x s.611	VG	6y 6m NPP 4y 6m (concurrent)	AD		<b>SNPP 7 years</b> Sexually assaulted former partner in her home – anal intercourse, fellatio and penile / vaginal intercourse
44.	<b>LM</b> (minor) <a href="#">[2006] NSWCCA 322</a>	3 x s.611	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.	<b>Dean</b> (44) (2006) 166 A Crim R 341 <a href="#">[2006] NSWCCA 341</a>	s.611	VG	10y NPP 7y	AA 9y 4m NPP 7y	Lengthy	<b>SNPP 7 years</b> 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) <a href="#">[2006] NSWCCA 339</a>	2 x s.611	VG	5y NPP 3y 9m (concurrent)	AD	Minor	<b>SNPP 7 years</b> 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) <a href="#">[2006] NSWCCA 371</a>	s.611	VG	3y NPP 3m	Crown AA 3y NPP 15m	Nil	<b>SNPP 7 years</b> Sexually assaulted sleeping female friend in own home – spontaneous – no force or threat – penile / vaginal intercourse - lower end of scale Ill health
48.	Carvahlo <a href="#">[2007] NSWCCA 344</a>	s.611	VG	8y NPP 5y 4m	AD	Assault, B&E - on parole.	<b>SNPP 7 years</b> Met 19y female English tourist in hotel – forced penile/vaginal penetration on complainant in ladies' toilets Evidence of frontal lobe damage.
49.	Sabapathy <a href="#">[2008] NSWCCA 82</a>	s.611	PG (12%)	3y NPP 18m	AD	Nil	<b>SNPP 7 years</b> 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 <a href="#">[2008] NSWCCA 174</a>	s.611  Att s.611	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		<b>SNPP 7 years</b> 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) <a href="#">[2008] NSWCCA 189</a>	s.611  Indecent ass	VG	10m suspended  5y GBB	Crown AD	Prior s.10 for indecent assault	<b>SNPP 7 years</b> 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.	<b>Giotas</b> <a href="#">[2008] NSWCCA 287</a>	2 x s.611	VG	5y NPP 3y 4m	AA 4y 6m NPP 2y 3m  (concurrent)		<b>SNPP 7 years</b> 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.	<b>King</b> (33) (2008) 191 A Crim R 552 <a href="#">[2008] NSWCCA 316</a>	s.611	PG (1/6 <sup>th</sup> )	5y 10m NPP 4y 3m	AD	Bad record – including dishonesty and violence	<b>SNPP 7 years</b> Spent day socially with complainant – forced digital penetration in public toilet cubicle – complainant hit head on toilet bowl in struggle Aboriginal - difficult background
54.	<b>Gillies</b> (43) <a href="#">[2008] NSWCCA 339</a>	s.611  Film for indecent purposes	VG	6y 8m NPP 5y  6m (concurrent)	AD		<b>SNPP 7 years</b> 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.	<b>Dionnet</b> (40) <a href="#">[2009] NSWCCA 85</a>	2 x s.611	VG	10y NPP 7y (concurrent)	AD	Not of great significance – assault, driving	<b>SNPP 7 years</b> 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.	<b>Mitten</b> (30) <a href="#">[2009] NSWCCA 103</a>	s.611  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	<b>SNPP 7 years</b> 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.	<b>McCartney</b> (22) <a href="#">[2009] NSWCCA 244</a>	s.611	PG (16.6%)	2y 6m NPP 1y 3m	AD	Nil	<b>SNPP 7 years</b> 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.	<b>Salmond</b> <a href="#">[2010] NSWCCA 141</a>	s.611  Indecent ass	VG	4y 6m NPP 2y  FT 2y (concurrent)	AD	Nil	<b>SNPP 7 years</b> 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.	<b>BP</b> (16) (2010) 201 A Crim R 379 <a href="#">[2010] NSWCCA 159</a>	s.611	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 raised in domestic violence and substance abuse – limited education
60.	<b>Ali</b> (22) <a href="#">[2010] NSWCCA 35</a>  <a href="#">[2014] NSWCCA 45</a>	2 x s.61L  s.611	VG	10y 8m NPP 8y  FT 2y (concurrent)	AD  AA 8y 8m NPP 6y 6m  FT 2y (concurrent)		<b>SNPP 7 years</b> 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.	<b>Daley</b> (37) <a href="#">[2010] NSWCCA 223</a>	s.611	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	<b>SNPP 7 years</b> Forced anal intercourse on 19y cell mate – threatened violence Aboriginal with neglected childhood – alcohol problems – high risk of re-offending – previous sexual offence similar to current offence

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62.	<b>Russell</b> (46) <a href="#">[2010] NSWCCA 248</a>	s.611  s.611  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	<b>SNPP 7 years</b> 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 with difficult background – early alcohol addiction
63.	<b>Jiang</b> <a href="#">[2010] NSWCCA 277</a>	2 x s.611  s.61L	VG	2y NPP 18m  FT 6m (concurrent)	AD	nil	<b>SNPP 7 years</b> 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.	<b>Rajendran</b> (35) (2010) 206 A Crim R 316 <a href="#">[2010] NSWCCA 322</a>  <a href="#">[2014] NSWCCA 113</a>	s.611	VG	7y 6m NPP 5y	AD   AD	Nil	<b>SNPP 7 years</b> Met on internet site – falsely intimated 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.	<b>Bellchambers</b> <a href="#">[2011] NSWCCA 131</a>	s.611  s.611  s.611  s.611	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	<b>SNPP 7 years</b> 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.	<b>Ollis</b> (28) <a href="#">[2011] NSWCCA 155</a>	2 x s.611  s.611  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	<b>SNPP 7 years</b> 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.	<b>Badans</b> <a href="#">[2012] NSWCCA 97</a>	s.611	VG	3y NPP 1y	AD		<b>SNPP 7 years</b> 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.	<b>Norman</b> <a href="#">[2012] NSWCCA 230</a>	3 x s.61I	VG	<u>Total:</u> 7y 6m NPP 4y 6m	AD	Nil	<b>SNPP 7 years in relation to 2<sup>nd</sup> and 3<sup>rd</sup> offences</b> 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.	<b>Stewart</b> (21) <a href="#">[2012] NSWCCA 183</a>	s.61I  Sched: Mal damage	PG (25%)	4y 6m NPP 2y 8m	AD	Breached interstate suspended sentence	<b>SNPP 7 years</b> 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.	<b>NM</b> <a href="#">[2012] NSWCCA 215</a>	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		<b>SNPP 7 years</b> 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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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
71.	<b>Dawson</b> (55) <a href="#">[2013] NSWCCA 61</a>	2 x s.611  2 x s.611  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.	<b>SNPP 7 years</b> Assaulted niece aged 16y – 3 counts of digital penetration, 1 count of penile penetration Intellectual disability – special circumstances – cannabis abuse for many years.
72.	<b>Egan</b> (28) <a href="#">[2013] NSWCCA 196</a>	s.611  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	<b>SNPP 7 years</b> 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.	<b>Abdul</b> (21) <a href="#">[2013] NSWCCA 247</a>	s.611	VG	9y 4m NPP 7y	AD	poor record	<b>SNPP 7 years</b> Sexually assaulted female acquaintance in motel room – after struggle forced penetration from behind
74.	<b>Doe</b> <a href="#">[2013] NSWCCA 248</a>	s.611  3 x s.611  s 61L	VG	11y NPP 8y  10y NPP 7y  3y NPP 2y (all concurrent)	AD		<b>SNPP 7 years</b> 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.	<b>Martin</b> (47) <a href="#">[2013] NSWCCA 253</a>	s.611	VG	9y NPP 7y	AD		<b>SNPP 7 years</b> 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 – troubled upbringing.
76.	<b>Simpson</b> (42) <a href="#">[2014] NSWCCA 23</a>	s.611  AOABH  Sched: s.611	PG (15%)	7y 6m NPP 5y  FT 18m  <u>Total:</u> 8y 6m NPP 6y	AD	breached bond – record for violence	<b>SNPP 7 years</b> 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.	<b>Greenwood</b> (36) <a href="#">[2014] NSWCCA 64</a>	s.611  s.61L	VG	4y 6m NPP 3y 4m  12m FT (concurrent)	AD	Breached bail – nil other matters	<b>SNPP 7 years</b> 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.	<b>Aslan</b> (35) <a href="#">[2014] NSWCCA 114</a>	s.611  2 x s.611  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	<b>SNPP 7 years</b> 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.	<b>Kanchitanon</b> <a href="#">[2014] NSWCCA 204</a>	s.611  s.61L	VG	4y NPP 2y 6m  4m (concurrent)	AD	Nil	<b>SNPP 7 years</b> 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.	<b>Tonari</b> (28) <a href="#">[2014] NSWCCA 232</a>	s.61I  2 x s.61I  s.2 x 61I  2 x s.61L	VG (see facts)	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	<b>SNPP 7 years</b> 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.	<b>Nand</b> <a href="#">[2014] NSWCCA 293</a>	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	<b>SNPP 7 years</b> Sexually assaulted 18y female stranger unconscious at railway station – both intoxicated – forced fellatio – vaginal penetration – used phone to record offence
82.	<b>Pasoski</b> <a href="#">[2014] NSWCCA 309</a>	5 x s.61I  2 x AOABH	VG	<u>Aggregate:</u> 5y 6m NPP 2y 9m	Conviction AA 2 x s.61I offences quashed  <u>Aggregate:</u> 4y 11m NPP 2y 5.5m		<b>SNPP 7 years</b> 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 -

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83.	Ahmu (27) <a href="#">[2014] NSWCCA 312</a>	2 x s.611  5 x s.611  2 x s.611  5 x s.611  s.611  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	<b>SNPP 7 years</b> 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) <a href="#">[2015] NSWCCA 105</a>	s.611  s.61L  s.61L	VG	6y NPP 3y  FT 12m  FT 20m  (concurrent)	AD	nil	<b>SNPP 7 years</b> 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) <a href="#">[2015] NSWCCA 117</a>	s.611  s.611  Supply amphetamines	VG   PG	8y NPP 6y  10y NPP 6y  FT 12m  <u>Total</u> 12y NPP 8y	AD	Lengthy	<b>SNPP 7 years</b> Sexually assault at home of acquaintance in bathroom – forced fellatio – vaginal / penile intercourse – supply complainant with amphetamines

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86.	<b>Jeffreys</b> (53) <a href="#">[2015] NSWCCA 132</a>	s.611	VG	3y 8m NPP 1y 8m	Conviction AD		<b>SNPP 7 years</b> 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.	<b>Cowling</b> (22) <a href="#">[2015] NSWCCA 213</a>	s.611  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	<b>SNPP 7 years</b> 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.	<b>Lee</b> (60) <a href="#">[2016] NSWCCA 66</a>	2 x s.611  s.611	VG	8y NPP 5y 4m  7y 9m NPP 5y 2m  <u>Aggregate</u> 11y NPP 7y 6m	AD	Priors for sexual offences	<b>SNPP 7 years</b> 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.	<b>Bullock</b> (18) <a href="#">[2016] NSWCCA 131</a>	s.611	PG (25%)	6y NPP 3y 6m	AA 5y NPP 2y 6m	Nil	<b>SNPP 7 years</b> 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

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90.	Darby (35) <a href="#">[2016] NSWCCA 164</a>	s.611  s.611 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	<b>SNPP 7 years</b> 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 <a href="#">[2016] NSWCCA 286</a>	s.611  s.611 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		<b>SNPP 7 years</b> 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

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92.	<b>Rosenburg</b> <a href="#">[2016] NSWCCA 292</a>	s.611  s.611  s.611  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	<b>SNPP 7 years</b> 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.	<b>Mol</b> <a href="#">[2017] NSWCCA 76</a>	5 x s.611  6 x s.61L	VG	<u>Aggregate</u> 14y NPP 10y	AD	Nil	<b>SNPP 7 years</b> 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.	<b>Sharma</b> (28) <a href="#">[2017] NSWCCA 85</a>	2 x s.611  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	<b>SNPP 7 years</b> 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 <a href="#">[2017] NSWCCA 192</a>	s.611	VG	5y 9m NPP 3y	AD	Indecent assault – alcohol related assaults	<b>SNPP 7 years</b> 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) <a href="#">[2017] NSWCCA 212</a>	s.611  s.611 s.97  Sched: s.611	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) <a href="#">[2018] NSWCCA 15</a>	3 x s.611  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	<b>SNPP 7 years</b> 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) <a href="#">[2018] NSWCCA 34</a>	3 x s.611	VG	2y – suspended	Crown AA. 2y NPP 15m	Minor	<b>SNPP 7 years</b> 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.	<b>Dowd</b> (19) <a href="#">[2018] NSWCCA 102</a>	s.611	VG	5y NPP 2y 6m	Crown AD	Nil relevant	<b>SNPP 7 years</b> 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.	<b>MM</b> (17) <a href="#">[2018] NSWCCA 158</a>	s.611  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.	<b>McGrory</b> <a href="#">[2018] NSWCCA 226</a>	Att s.611 2 x s.611  2 x s.611  4 x s.59  2 x s.323(a) - persuade witness	VG	2y 6m  7y 6m NPP 5y 6m  5y 6m NPP 4y  18m / 9m  12m  <u>Aggregate:</u> 9y 6m NPP 7y	AD	old offences	<b>SNPP 7 years</b> 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

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102.	Wan (69) <a href="#">[2019] NSWCCA 86</a>	4 x s.611  s.611  8 x s.61L	VG	3y 6m NPP 1y 8m  4y NPP 2y  6m / 12m / 15m  <u>Aggregate</u> 5y 6m NPP 2y 9m	Crown AA 5y NPP 3y 3m  5y NPP 3y 3m  6m / 18m / 2y  <u>Aggregate:</u> 8y NPP 5y	nil	<b>SNPP 7 years</b> 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 <a href="#">[2019] NSWCCA 120</a>	s.611  s.611	VG	4y  6y  <u>Total:</u> 7y NPP 4y	AD		<b>SNPP 7 years</b> 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) <a href="#">[2019] NSWCCA 149</a>	s.611	VG	9y NPP 6y 4m	AD	Nil	<b>SNPP 7 years</b> Uber (taxi) driver – assaulted intoxicated female passenger - purchased condoms and assaulted complainant in back seat.
105.	Ganji <a href="#">[2019] NSWCCA 208</a>	s.611	VG	5y NPP 3y	Conviction AD		<b>SNPP 7 years</b> Taxi driver - intoxicated female passenger – fellatio – pushed complainant’s head down.
106.	Cordeiro <a href="#">[2019] NSWCCA 308</a>	s.611	VG	3y 6m NPP 2y 3m	AD		<b>SNPP 7 years</b> Complainant asleep – digital penetration Complainant an employee on boat owned and operated by applicant
107.	Elwood (18) <a href="#">[2019] NSWCCA 315</a>	s.611  s.66 certificate – contravene AVO  Sched: Assault	PG (15%)	4y 2m NPP 2y 9m  10m  <u>Aggregate:</u> 4y 6m NPP 3y	AA 3y NPP 18m  9m  <u>Aggregate:</u> 3y 2m NPP 1y 8m		<b>SNPP 7 years</b> In relationship with complainant – complainant indicated she did not wish to have sexual intercourse – digital–anal penetration. Aboriginal background - intellectual disability CCA: error as to special circumstances

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108.	Rahman (36) <a href="#">[2020] NSWCCA 13</a>	s.611  Sched: s.611	PG (25%)	6y NPP 4y 6m	AD	Nil	<b>SNPP 7 years</b> 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) <a href="#">[2020] NSWCCA 54</a>	s.611	PG	3y Community Corrections Order	Crown AD	Nil	<b>SNPP 7 years</b> 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 – 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
110.	Dabboussi (28 at sentence) <a href="#">[2020] NSWCCA 111</a>	s.611  s.35(4)  Sched: s.611 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	<b>SNPP 7 years</b> 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

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111.	<b>Aliabadi</b> <a href="#">[2020] NSWCCA 224</a>	s.611 2 x s.61L	VG	<u>Aggregate:</u> 4y 3m NPP 2y 10m	AD	Not mentioned	<b>SNPP 7 years</b> 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.	<b>Hewitt</b> (21) <a href="#">[2020] NSWDC 566</a> Wilson SC DCJ	s.611	VG	3y Community Corrections Order		nil	<b>SNPP 7 years</b> 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
113.	<b>Francis</b> (57) <a href="#">[2020] NSWDC 870</a> ML Williams SC DCJ	s.611	VG	2y Community Corrections Order		Minor traffic offences	<b>SNPP 7 years</b> 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.	<b>Pratt</b> (31) <a href="#">[2021] NSWCCA 76</a>	Attempt s.611  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.

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115.	Fisher (25) <a href="#">[2021] NSWCCA 91</a>	2 x s.61I	VG	Community Corrections Order 3y.	Crown AA 5y NPP 3y	Nil.	<b>SNPP 7 years</b> 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.
116.	Shanmugam <a href="#">[2021] NSWCCA 125</a>	2 x s.61I  Attempt s.61I  2 x s.61KC(a)	VG	5y NPP 3y	AD	Nil	<b>SNPP 7 years</b> 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) <a href="#">[2021] NSWCCA 296</a>	s.61I	PG (10%)	2y NPP 9m	Crown AD	Nil	<b>SNPP 7 years</b> 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) <a href="#">[2021] NSWCCA 315</a>	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.	<b>SNPP 7 years</b> Complainant asleep, woke up to find applicant in her bed performing digital penetration – incident occurred during a party. Significant intellectual disability – Aboriginal indigenous background – opportunistic, not planned – dysfunctional background ( <i>Bugmy</i> applied).

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
119.	Kelly (19) <a href="#">[2022] NSWCCA 189</a>	s.61I	VG	5y 9m NPP 3y 9m	AD	Nil	<b>SNPP 7 years</b> 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
120.	Ramsey (37) <a href="#">[2022] NSWCCA 197</a>	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.	<b>SNPP 7 years</b> 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.

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
121.	Sharma <a href="#">[2022] NSWCCA 190</a>	s.38(b) Cause to take intoxicating substance to enable sexual intercourse w/o consent [25y]  s.611  s.611  2 x s.91P(1)  Attempt s.91P(1)  Sched: 1 x s.611  s.166 Certificate: 2 x possess proh drug	PG (25%)	<u>Indicative</u> 8y  4y 10m NPP 3y 1m  3y 9m NPP 2y 5m  1y 6m  5m  <u>Aggregate</u> 11y NPP 7y	AD	Nil	<b>SNPP 7 years</b> Gave female complainant Zolpidem (Ambien), a sedative and hypnotic which rapidly induces sleep – engaged in penile/vaginal and penile/anal intercourse whilst complainant unconscious or semi-unconscious - offences of intentionally recording intimate images without consent committed against two further female victims. Genuinely remorseful - reasonably good prospects of rehabilitation – unremarkable subjective case.
122.	Harper <a href="#">[2022] NSWCCA 211</a>	s.611  s.611  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	<b>SNPP 7 years</b> 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

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
123.	Bektasovski (18) <a href="#">[2022] NSWCCA 246</a>	s.611  s.61L  s.611	VG	<u>Indicative</u> 3y 6m NPP 2y 3m  1y  6y NPP 2y 8m  <u>Aggregate:</u> 5y 6m NPP 3y 4m	AD	Nil	<b>SNPP 7 years</b> Arranged for 17y female to attend offender's home for computer assistance – forced fellatio and unprotected penile / vaginal intercourse – opportunistic and unplanned – sustained and degrading physical and sexual assault ignoring complainant's protests – objectively serious Relative immaturity
124.	Chia (56) <a href="#">[2023] NSWCCA 63</a>	s.611  s.611  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	Extensive record for fraud offences – offences breached conditional liberty	<b>SNPP 7 years</b> 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

Last updated: Mar 2023

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