

Aggravated Sexual Intercourse Without Consent

Offences Committed on or after 1.2.2003

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*)

<u>Maximum penalty:</u>	20 years
<u>Standard non-parole period:</u>	10 years (offences committed on or after 1.2.2003)
<u>Commenced:</u>	17.3.1991

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
1.	Hopkins [2004] NSWCCA 105	s.61J (mal inflict abh)	Not stated	2y NPP 6m	Crown AD	Nil significant	SNPP 10 years Prolonged and bizarre assault on girlfriend included forcing cigar deep into vagina and taking sexually explicit photos Suffering manic episode stage of bipolar disorder – unprecedented behaviour – unlikely to re-offend if take medication
2.	Doolan (24) (2006) 160 A Crim R 54 [2006] NSWCCA 29	2 x s.61 3 x s.61I s.61J	VG	FT 4m FT 4y 8y NPP 5y <u>Total:</u> 10y NPP 7y	AD	offences committed on bail for earlier offences against complainant – other offences on record minor	SNPP 10 years Approached estranged de facto partner outside hotel, pushed her in chest and grabbed her hair – together walked into school yard where forced digital and penile penetration – threatened to assault with brick – walked to complainant’s flat where complainant assaulted with stick – drove to another town where offender forced digital and penile penetration – opportunistic offences – below mid-range
3.	Thorne (36) [2007] NSWCCA 10	s.61J 2 x s.61I	VG	13y 4m NPP 10y 9y 4m NPP 7y <u>Total:</u> 13y 4m NPP 10y	AA 9y 6m NPP 6y 7y NPP 3y 6m <u>Total:</u> 11y NPP 7y 6m	Dishonesty and sexual assault	SNPP 10 years Sexually assaulted estranged wife – punched and hit her to head – forced penile / vaginal and anal intercourse – chased complainant from house – threats to kill - attempted suicide – impulsive offence – intoxicated and depressed – below mid-range
4.	Musgrove (34) (2007) 167 A Crim R 424 [2007] NSWCCA 21	s.61J	PG (20-25%)	10y 6m NPP 8y	AD	Incite person <16 commit act indecency	SNPP 10 years Sexually assaulted female stranger on secluded beach – threatened with knife.
5.	BWS (50) [2007] NSWCCA 59	2 x s.61J AOABH	VG	10y NPP 6y FT 4m <u>Total:</u> 10y 6m NPP 7y 6m	Crown AA 9y 6m NPP 6y 6m FT 3m <u>Total:</u> 10y 6m NPP 7y 6m		SNPP 10 years Sexual assaults upon 16y niece – offences part of wider conduct. Sentences made cumulative.

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6.	Topcu (28) Papadopoulos [2007] NSWCCA 274	s.61J s.61J s.61J	VG VG	 6y NPP 4y 6m 7y 7m NPP 5y 9m <u>Total:</u> 7y 7m NPP 5y 9m	Conviction AA 3y 6m NPP 2y 3m 2y NPP 1y 6m 3y 3m NPP 2y <u>Total:</u> 4y NPP 2y 9m	Priors and breached conditional liberty – not regarded as serious in circumstances of case Nil	SNPP 10 years T forced female friend to perform fellatio at request of co-offender E – acting under an element of duress from aggressive and violent conduct of E – P forced fellatio and vaginal intercourse under similar duress – offences well below mid-range – both offenders could have done more to prevent offences T - On appeal original conviction for s.61JA replaced by s.61J T – remorse – protective custody – psychological problems P – prior good character
7.	CM (15) [2008] NSWCCA 195	s.61J Sched: s.86(2)(b)	PG	10y 6m NPP 6y 6m	AD	Dishonesty, drugs, assault police – breached bail and bond	SNPP 10 years Accompanied 26y female to unit – bashed complainant over head and body with piece of wood – forced sexual intercourse – detained for some time during which complainant subjected to further taunts and assaults - close to worst category of offence. Troubled background.
8.	Glover (18) (2009) 193 A Crim R 292 [2009] NSWCCA 48	s.61J	PG (20%)	15y NPP 10y	AA 12y NPP 8y	AOABH, mal damage - on bond.	SNPP 10 years Grabbed 16y old female complainant walking at night – dragged complainant behind bushes, punched her in face and made threatening remarks – penile vaginal intercourse. Dysfunctional background
9.	El-Chammas (18) [2009] NSWCCA 154	s.61J (inflict ABH) Sched: Assault police Resist police	PG (25%)	5y NPP 3y	Crown AA 6y 6m NPP 4y	Nil	SNPP 10 years Assaulted 81y female Korean tourist walking in park in early morning – threw to ground and punched – digital and penile penetration – no explanation for offence – intoxication – spontaneous offence – vulnerable complainant Good character – good prospects of rehabilitation – genuine remorse

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10.	Stephens (18) [2010] NSWCCA 93	s.61J s.61J s.61J s.86(2)(b) Sched: 3 x s.611 3 other offences	PG (25%)	14y NPP 9y 14y NPP 8y 12y NPP 8y 9y NPP 5y <u>Total:</u> 20y NPP 14y	AA 14y NPP 9y 11y NPP 5y 8y NPP 4y 9y NPP 5y <u>Total:</u> 18y NPP 12y	Dishonesty offences	SNPP 10 years While complainant working at party offender took her car keys and hid in boot of car – as complainant driving home in early hours of morning forced entry into car through rear seat and forced complainant into nearby street – locked car – forced masturbation – repeated penile penetration of anus – digital penetration of anus – repeated penile penetration of vagina – forced fellatio with full weight on complainant – digital penetration inserting full fist – repeated penile penetration of anus - throughout assault spoke in degrading manner ignoring screams of pain – complainant escaped through rear door while offender driving Offending out of character
11.	Dipangkear (29) [2010] NSWCCA 156	s.61J (inflict ABH) Sched: One offence	PG	4y 6m NPP 2y 3m	AD	Nil	SNPP 10 years Followed 24y complainant on street at night – grabbed complainant and tried to kiss her – punched complainant twice to face, undid her trousers and inserted finger in vagina and anus – committed offence on way home from work at restaurant – intoxicated - less than mid-range. Hardship to third party – wife pregnant.
12.	Cole (39) [2010] NSWCCA 227	s.61J s.86(1)	PG (25%)	14y NPP 10y FT 5y <u>Total:</u> 16y NPP 12y	AD		SNPP 10 years Broke into home of 44y female with two young children late at night – suffering paranoid delusions and seeking to escape 'pursuers' – threatened complainant and young daughter – tied hands of complainant and blindfolded her – forced fellatio – sprayed with bleach to 'remove DNA' – stayed all night then demanded lift to another suburb – well towards upper range
13.	Monteiro [2011] NSWCCA 113 [2014] NSWCCA 277	s.61J s.195(1)(a) s.117	VG PG	11y NPP 6y 6m FT 2y 8m FT 1y 9m <u>Total:</u> 12y 3m NPP 7y 9m	AD Crown AD AD	lengthy record including violence	SNPP 10y Forced penile / vaginal intercourse with ex-partner after first assaulting her around face – offence took place in complainant's home – after arrest caused \$14,750 damage to complainant's property as act of revenge – also stole electrical property from complainant – close to mid-range seriousness Some mental health issues

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14.	Hendricks (42) [2011] NSWCCA 203	s.61J (inflict ABH) s.61I Sched: AOABH Poss restricted substance	PG (25%)	9y NPP 5y 6m 3y NPP 2y 3m <u>Total:</u> 11y 3m NPP 7y 9m	AA 9y NPP 5y 6m 3y NPP 2y 3m <u>Total:</u> 9y 9m NPP 6y 3m	Minor	SNPP 10 years Sexually assaulted partner on two separate occasions two months apart – forced penile / vaginal intercourse on first occasion – forced oral / vaginal intercourse and attempted penile / vaginal intercourse on second occasion Abusive childhood – good work record – appeal allowed to increase concurrence of sentences
15.	Piscitelli (24) [2013] NSWCCA 8	s.61J s.61J s.112(3) s.61L	PG (25%)	12y NPP 7y 6m 13y NPP 8y 10y 6m NPP 6y 6m FT 2y <u>Total:</u> 16y 6m NPP 11y 6m	AD	Record including minor sexual offences	SNPP 10 years Broke into home of 83y female at night – attempted penile penetration while complainant on stomach – digital penetration – forced complainant on to back and forced penile penetration – touched breast – bashed complainant's head against wall several times
16.	Eatts (24 at offence – 34 at sentence) [2013] NSWCCA 14	s.61J 2 x s.61I Sched: 2 x s 61I Indecent assault	PG	12y NPP 9y 9y 4m NPP 7y <u>Total:</u> 12y NPP 9y	AD	Lengthy - robbery, receiving - previous custody.	SNPP 10 years Sexually assaulted fellow 19y male inmate whilst in remand – offences occurred in 2004 Aboriginal – disturbed upbringing – virtually no education – psychiatric illness – drug abuse
17.	Buksh (36) [2013] NSWCCA 60	2 x s.61J s.61J Sched: 2 x 61J	PG (25%)	9y NPP 6y 10y NPP 6y <u>Total:</u> 12y NPP 8y	AD	Nil	SNPP 10 years Sexually assaulted complainant who was highly intoxicated – did not know complainant - met complainant and friends at railway station at night and accompanied them to a club – assured complainant's friends he would take complainant home in taxi but instead took her to his home – digital, vaginal and anal penetration. Prior good character.

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18.	Cortese (32) [2013] NSWCCA 148	s.61J s.61L	PG (on appeal – 25%)	FT 2y suspended GBB s 9	Crown AA 3y NPP 18m	nil	SNPP 10 years Sexually assaulted ex-girlfriend – could not accept complainant wanted to end relationship – would not allow complainant to leave offender’s apartment – forced vaginal intercourse – threatened complainant. Prior good character. Below mid-range - sentencing judge erred in finding offence “at bottom of range.”
19.	Black (40) [2013] NSWCCA 265	s.61J 3 x s.61J 2 x s.61L s.61N	VG	11y NPP 7y FT 6y FT 1y FT 4m <u>Total:</u> 14y NPP 9y 6m	AD		SNPP 10 years Broke into home of female friend at night – threatened with knife – forced digital, penile and anal intercourse – forced complainant to insert finger during penile intercourse – grabbed and bit left breast – forced complainant to rub offender’s penis – placed vibrator between legs of complainant – motivated by jealousy and resentment – premeditated offences
20.	Currie (48) [2013] NSWCCA 267	2 x s.61J s.61L	VG	13y 4m NPP 10y FT 18m (concurrent)	AD	Aggravated sexual assault, BES, drugs, assault.	SNPP 10 years Offence took place in 2005 - Sexually assaulted female overseas tourist – had offered complainant a lift – stopped and threatened complainant with knife – oral and penile intercourse - serious gravity. Mental health issues.

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21.	Simon (37) [2013] NSWCCA 328	8 x s.61J 2 x s.61J 2 x Att s.61J s.113(2) 2 x s.61L s.97(1) s.86(1)(b) 2 x s.178BA	VG	18y NPP 13y 6m 18y NPP 13y 6m 16y NPP 12y FT 2y FT 2y FT 1y 6m FT 2y FT 6m <u>Total:</u> 22y NPP 17y	AA 18y NPP 13y 6m 18y NPP 12y 6m 16y NPP 12y FT 2y FT 2y FT 1y 6m FT 2y FT 6m <u>Total:</u> 22y NPP 16y	lengthy – including violent sexual offences	SNPP 10 years Followed 22y female stranger home – broke into unit and threatened complainant with knife – sexual assaults committed over several hours – penile / vaginal intercourse – penile / oral intercourse – attempted anal intercourse – threats to kill – carefully planned offence Serious danger to community
22.	O'Connor (30) [2014] NSWCCA 53	s.61J s.37 s.37 Sched: 7 offences	VG	7y NPP 3y FT 4y FT 4y <u>Total:</u> 12y 10m NPP 9y	Crown AA 10y NPP 7y 6m FT 4y FT 10y <u>Total:</u> 14y NPP 10y 6m	Extensive – breached bail	SNPP 10 years Straddled girlfriend in bed and attempted to choke when she refused sexual intercourse – later choked until complainant blacked out when she asked him to leave – complainant woke up bound and gagged on bed – cut dress with scissors – took complainant to bathroom to vomit then forced shower – returned to bed and forced penile / vaginal intercourse Sustained serious brain injury from prison assault after trial

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23.	Keeley (29) [2014] NSWCCA 139	s.61J 2 x s.61J s.95(1) Sched: s.61J s.61L	PG (25%)	10y NPP 7y 6m 12y NPP 9y FT 18m <u>Total:</u> 15y NPP 12y	AD	break, enter and steal, larceny and PCA offences	SNPP 10 years Young female complainant walking home from work at 8pm approached by offender – forced her into alleyway with knife – digital and penile penetration – forced exposure of breasts and masturbation of offender – kissed complainant’s breasts and forced penile intercourse again
24.	YS (15) [2014] NSWCCA 226	2 x s.61J Att s.61J s.112(2) s.195(1)(b) SMV	PG (25%)	6y NPP 4y 6y NPP 3y FT 2y 3m 12m control order 15m control order <u>Total:</u> 8y 6m NPP 5y 6m	Crown AD	record	No SNPP - Juvenile Broke into bedroom of 70y female through window using knife in early hours of morning – sexually assaulted complainant forcing fingers into vagina then anus – demanded complainant fellate him – kicked complainant several times to ribs causing broken rib – co-offenders waited outside window – stole complainant’s property and car – set car alight in school property causing extensive damage Aboriginal with difficult childhood
25.	Panchal (50) [2014] NSWCCA 275	s.61J 3 x s.61M(1)	VG	5y NPP 3y FT 3m / 6m / 9m (concurrent)	Crown AA 7y NPP 4y 6m FT 6m / 12m / 16m <u>Total:</u> 8y NPP 5y 6m	nil	SNPP 10y Guard on train sexually assaulted intellectually disabled girl catching train from special school – invited her into guard compartment – touched her around vagina and breasts - digital intercourse – degrading, humiliating and unprovoked attacks – significant effect on complainant
26.	Martin (57) [2015] NSWCCA 6	s.61J s.95	PG (25%)	10y 6m NPP 7y FT 18m <u>Total:</u> 11y NPP 7y 6m	AD	Limited – particularly in view of longstanding mental health issues	SNPP 10y Placed hands over windpipe of prostitute while she was performing oral sex – caused complainant to become unconscious and forced penile / vaginal intercourse – complainant awoke still being choked – took handbag and made threat to kill – used condom Longstanding psychiatric problems

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27.	Omar (33 at sentence) [2015] NSWCCA 67	s.61J s.61J s.61J s.98	PG	4y 6m NPP 2y 3m 5y NPP 2y 6m 6y NPP 2y 6m 4y 6m NPP 2y <u>Total:</u> 6y 10m NPP 3y 11m	Crown AD	Breached conditional liberty	SNPP 10y (2004) Dragged 39y female stranger walking at 6am into school yard – violence and threats to kill – fellatio – vaginal and anal intercourse – (2006) robbed butcher in shop – punched and stabbed complainant multiple times Significant rehabilitation subsequent to offending – drug free after years of daily drug use – remorse – father to four children including step son with special needs
28.	Herbert (30) [2015] NSWCCA 172	2 x s.61J (actual bodily harm) s.61J (actual bodily harm)	PG (25%)	6y 8y <u>Total:</u> 10y NPP 7y	AA 5y 3m 7y <u>Total:</u> 9y NPP 6y 3m	Minor	SNPP 10y Assaulted 55y female stranger walking along beach – punched complainant in face and dragged her into bushes – digital penetration – licked and sucked genitals – choked to unconsciousness – threatened children – spontaneous offence Voluntarily attended police station concerned may have committed offence while intoxicated – suffering depression and alcohol abuse – genuine contrition good prospects of rehabilitation On appeal failed to give Ellis discount
29.	Mooney (45) [2016] NSWCCA 231	s.61J s.61J Sched: 2 x s.61M(1)	PG (20% - on appeal)	8y NPP 5y 8y NPP 4y <u>Total:</u> 11y 6m 7y 6m	AA 6y 6m NPP 4y 10m 6y 6m NPP 3y 6m <u>Total:</u> 9y NPP 6y	Nil relevant	SNPP 10y Worked in nursing home - two complainants with disability – digital penetration of anus of 82y female while she was asleep – penile penetration of anus of second complainant. Mild intellectual disability – lowest 1% of population.

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30.	Alcazar (19) [2017] NSWCCA 51	s.61J (in company) s.61J (in company) s.61J (in company)	PG (50% plea and assist)	<u>Indicative:</u> 2y NPP 12m 1y 9m NPP 11m 1y 6m NPP 9m <u>Aggregate:</u> 4y NPP 2y	Crown AA <u>Indicative:</u> 5y 4y 2y 6m <u>Aggregate:</u> 6y 6m NPP 4y 3m	Minor	SNPP 10y 18y female heavily intoxicated at party – in company of 2 co-offenders sexually assaulted complainant by penile-vaginal intercourse – all offenders committed assaults at same time - also liable for offences of fellatio and digital penetration committed by co-offenders (joint criminal enterprise). Rehabilitation – remorse
31.	Attwater (36) Maris (40) [2017] NSWSC 1710 Fullerton J	Manslaughter s.61J s.61J Hinder investigation	VG VG	<u>Indicative</u> 18y 12y NPP 9y <u>Aggregate:</u> 19y NPP 14y 3m 4y <u>Aggregate:</u> 9y NPP 6y 9m		Minor offences Record included violence	SNPP 10 years Together engaged in sexual activity with female complainant after heavy drinking – complainant unconscious due to intoxication A inserted hand and fist into vagina forcefully, vigorously and repeatedly – ignored what would have been obvious bleeding – complainant died from blood loss caused by two major tears to vaginal area M – engaged in simultaneous oral intercourse – attempted to cover up sexual offence by burning mattress and clothes Delay and protective custody
32.	Armstrong [2017] NSWCCA 323	s.61J s.61J s.61	VG	8y 6m NPP 5y 6m 8y 9m NPP 5y 9m (not stated) <u>Total:</u> 9y 2m NPP 6y 2m	AD	Not stated	SNPP 10 years During argument at home assaulted female partner, punching and biting her on nose – digitally penetrated vagina and anus – offences committed in front of 3y son

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33.	Hughes (21) [2018] NSWCCA 2	s.61J 3 x s.61I	VG	<u>Aggregate:</u> 8y 6m NPP 6y	AD	Nil	SNPP 10 years In previous relationship with female complainant who offender knew from high school – anal penetration and fellatio – pulled complainant by hair – violent nature of offending - just below mid-range objective seriousness. Prior good character – rehabilitation prospects.
34.	Simmons (18) [2019] NSWCCA 20	2 x s.61J 4 x s.61J Sched: 2 x s.61J	PG (25%)	7y 6m 9y <u>Aggregate:</u> 18y NPP 12y	AA 7y 6m 9y <u>Aggregate:</u> 15y NPP 10y	nil	SNPP 10 years Grabbed 22y female stranger walking along streets of country town in early evening – dragged complainant to river and sexually and physically assaulted her over one hour – punched in vagina – squeezed throat – bit face and breast – ripped out hair with teeth – forced penis into mouth – deep digital penetration of anus causing injury – penile and digital penetration of vagina – penile penetration of injured anus Aboriginal with deprived and violent childhood
35.	SC [2019] NSWCCA 25	s.61J 2 x AOABH	VG	<u>Indicative</u> 8y NPP 6y 2y 6m / 3y 6m <u>Aggregate</u> 10y NPP 7y 6m	AD	minor	SNPP 10 years Forced anal intercourse on wife – on two separate occasions assaulted wife – punched complainant in mouth causing injury requiring 6 stitches – grabbed her by hair and pushed into lounge – sexual offence slightly above mid-range
36.	Tindall (43) [2019] NSWCCA 136	s.61J s.61M(1)	VG	10y NPP 7y 6m 3y NPP 2y 3m <u>Aggregate:</u> 11y NPP 8y 3m	AD	some violence – no sexual offences	SNPP 10 years Female complainant with limited mobility in wheelchair met offender on train station late at night – complainant homeless and indicated travelling back to Central Station – rejected offender's offer to stay with him – both alighted at next station and offender agreed to push complainant to taxi stand – took complainant instead to secluded street and forced fellatio over sustained period of time – placed penis between breasts – left complainant lying on ground out of wheelchair – slightly above mid-range History of substance abuse

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37.	Saffin (31) [2020] NSWCCA 246	6 x s.61J 5 x indecent assault 2 x acts of indecency	VG	<u>Aggregate:</u> 14y NPP 9y 4m	AD	Significant.	SNPP 10 years Male complainant 19y – acquaintance – drove complainant to secluded bush area – showed complainant he had a knife - deprivation of liberty; physical restraint; detained in vehicle – oral and anal intercourse, masturbation – threatened complainant. Autism spectrum disorder – early drug use.
38.	Tatur (23) [2020] NSWCCA 255	s.61J	PG (25%)	5y NPP 2y 6m	AA 4y NPP 2y	BES as a juvenile	SNPP 10 years Had problematic relationship with intellectually disabled 25y complainant resulting in child – accompanied complainant to hospital to obtain treatment and medication for pain – on return home complainant refused sex but permitted offender to sleep in bed – awoke to find offender engaging in anal intercourse – between bottom and mid-range seriousness Schizoaffective disorder and intellectual disability making custodial conditions more onerous and inappropriate vehicle for deterrence – remorse – low to moderate risk of re-offending – good prospects of rehabilitation – special circumstances On appeal: erred in using JIRS statistics as starting point – erred in qualifying opinion of forensic psychologist
39.	Bussey (26) [2020] NSWCCA 280	s.61J	VG	4y 6m NPP 3y	AD	Nil	SNPP 10 years Visited home of ex-girlfriend – forced penile-vaginal intercourse for ten minutes without a condom – ejaculated on thigh – deprivation of liberty - recklessness – low to top of low range Prior good character – custody exacerbated by mental health On appeal: rejected suggestion offence mitigated by prior relationship

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40.	Manojlovic (36) [2020] NSWCCA 315	s.61M(1) s.61M(1) s.61J s.61J s.61J	VG	<u>Indicative:</u> 18m NPP 11m 2y NPP 15m 2y 1m NPP 18m 2y 9m NPP 20m 3y 3m NPP 22m <u>Aggregate:</u> 3y 9m NPP 1y 10	Crown AA <u>Indicative:</u> 20m NPP 12m 2y NPP 15m 2y 6m NPP 22m 3y NPP 2y 3y 6m NPP 2y 6m <u>Aggregate:</u> 5y 6m NPP 3y	Driving offences	SNPP 10 years Mentor teacher requested 17y complainant pick him up from house late at night – intoxicated – invited complainant in and refused to let her leave – locked front door and took car keys – forced sexual activity despite complainant’s request to stop – touched complainant outside underwear – kissed breasts and touched body – digital and penile intercourse and cunnilingus – unplanned – no condom – activity took place over 15 mins – no violence, threats or grooming – gross abuse of trust – aware no consent – repeated acts – age difference – ‘under authority’ Alcohol addiction – some mental health issues On appeal: error to find offences bottom of range – just below mid-range – manifestly inadequate
41.	Prasad (49) [2020] NSWCCA 349	s.61J	VG	<u>Indicative:</u> 10y NPP 7y 6m	Conviction AA on other counts. 8y NPP 6y	Overseas record- drugs, AOABH, domestic violence.	SNPP 10 years Forcible anal rape of cognitively impaired and physically disabled 61y female – complainant living in same apartment block as offender’s friend and came to visit – offender visiting and assaulted complainant - complainant cognitively impaired. No remorse - low-medium risk of re-offending - below average risk of sexual re-offending. CCA: Number of counts quashed on conviction appeal. Necessary to resentence on this count.
42.	Aryal (42) [2021] NSWCCA 2	s.61J s.61J	VG	<u>Indicative:</u> 4y 6m NPP 3y 6y NPP 3y 9m <u>Aggregate:</u> 8y NPP 5y 6m	AD	Nil	SNPP 10 years Male psychiatric nurse meet 21y intellectually disabled female by chance walking on street – pursued contact by text message until arranged to meet in person – took complainant to park and had digital and penile intercourse in back of vehicle – reckless as to capacity to consent – no violence or physical coercion – assault of short duration but no condom used – just below mid-range – circumstance of aggravation was complainant’s cognitive disability Prior good character On appeal: aggregate sentence not manifestly excessive

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43.	Barrett [2021] NSWSC 126 Wilson J	6 x s.61J Att s.61J 3 x s.61L Sched: 2 x s.61L 3 x s.61J	PG (10%)	<u>Total:</u> 20y NPP 12y		Nil at time	SNPP 10 years 2017 sentenced for brutal stabbing murder of female houseguest – fresh evidence subsequently found on USB – filmed brutal and prolonged sexual assault of complainant prior to stabbing after binding her to bed with tape – most serious example of offence of this nature – cruel and inhuman – planning – use of hunting knife as threat Sexual sadist – importance of specific deterrence and protection of community Sentence imposed partially concurrent to existing sentence for murder
44.	Singh (39) [2021] NSWCCA 96	s.86(2) s.35(4) 2 x s.61J s.61J Sched: 2 x s.61J 2 x s.61L	PG (10%)	<u>Indicative:</u> 7y NPP 4y 2y NPP 14m 8y NPP 4y 9m 6y NPP 3y 6m <u>Aggregate:</u> 15y NPP 9y	AD	Nil	SNPP 10 years Detained 22y female housemate in her bedroom with 20cm knife for several hours – during initial struggle complainant stabbed in arm causing serious injury – oral sex, forced fellatio and digital intercourse – forced complainant to rub offender's penis and rubbed penis over genital area - threatened to kill himself - made some attempt to treat complainant's wound – vicious, selfish and insidiously cruel – sexual offences mid-range and slightly below mid-range Suffering severe depressive episode and effects of personality disorder – some diminished moral culpability – remorse – genuine desire but guarded prospects of rehabilitation On appeal – errors made in use of schedule offence in assessing objective gravity but no lesser sentence warranted

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45.	Irmak	s.61JA(1)	VG	<u>Indicative</u> 16y NPP 11y	AD	Criminal history disentitled him to leniency	SNPP 15 years / SNPP 10 years Three male strangers picked up intoxicated 18y female on street after school formal and after formal party – took complainant to house where she was given alcohol and drugs and sexually assaulted over more than twelve hours – anal and vaginal intercourse and fellatio – four acts of intercourse committed by I – one act committed by D - two acts committed by third male - s.61JA offence based on infliction of actual bodily harm during anal intercourse – s.61J counts based on offences committed in company – all offence in upper mid-range – third offender left jurisdiction and never apprehended D - no subjective information provided on appeal I – no evidence of rehabilitation or remorse – breached conditional liberty
		2 x s.61J(1)		12y NPP 7y			
		2 x s.61J(1)		8y NPP 5y			
		s.61J(1)		13y NPP 8y			
	Dagdanasar [2021] NSWCCA 178	s.61JA(1)		<u>Indicative:</u> 12y NPP 7y			
		4 x s.61J(1)		8y NPP 5y			
		s.61J(1)		12y NPP 7y			
			<u>Aggregate:</u> 24y NPP 16y				

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
46.	Hunt (23) [2021] NSWCCA 192	s.61 s.61J(1) s.61J(1) s.61L s.61L Intimidate s.166 Breach AVO Sched: AOABH	VG	<u>Indicative</u> 3m 8y 6m NPP 5y 1m 9y 6m NPP 5y 8m 3y 3m NPP 1y 11m 2y NPP 1y 2m 18m NPP 11m 3m <u>Aggregate:</u> 11y NPP 6y 8m	AA <u>Indicative</u> 3m 6y 9m NPP 4y 3m 8y NPP 4y 9m 2y 6m 2y 18m 3m <u>Aggregate:</u> 9y 6m NPP 5y 8m	Limited	SNPP 10 years Sexually assaulted ex-partner one night after argument at hotel dinner – grabbed complainant at hotel by arm in anger – later forced way into complainant’s home – cunnilingus and penile intercourse – use of violence and intimidation to prevent complainant leaving bedroom – continued aggressive assault by forcing tongue into mouth – indecently touched complainant attempting to sleep with her son – next morning continued aggressive intimidation in bathroom – s.61J aggravation was deprive liberty – committed in complainant’s home – assaulted complainant on earlier occasions and subsequently breached AVO with multiple text messages – s.61J offences just below mid-range Offender of Aboriginal heritage with <i>Bugmy</i> considerations – exposed to mother’s substance abuse and placed in out of home care – limited education – death of brother – physical and mental health issues – impact of Covid 19 – some family support On appeal: failure to take into account pre-sentence custody.
47.	Hall (49) [2021] NSWCCA 220	s.61J(1) 2 x 61J(1) s.86(2)(b) 5 x s.61l Sched: 7 x s.61l	PG (25%)	<u>Indicative:</u> 9y 9m NPP 7y 3m 6y NPP 4y 6m 7y 6m 4y 6m NPP 3y 4m <u>Aggregate:</u> 22y NPP 16y 6m	AD	Limited criminal record.	SNPP 10 years Attacked female partner – tied hands behind back, prevented from leaving house over 12 hour period – fellatio, vaginal-penile intercourse – threatened with pliers and hammer - used knife to inflict cut to complainant’s thigh – struck complainant - sustained, brutal, terrifying attack - multiple humiliating and degrading sexual acts. Childhood deprivation; <i>Bugmy</i> .

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
48.	Ragg [2022] NSWCCA 150	s.61J(1) s.61J(1) 2 x 61J(1) s.86(2)(b) Common assault s.61 s.35(4) Intimidation s.47 2 x s.33(1)(b) Contravene AVO Threaten witness withhold evidence	PG	<u>Indicative</u> 9y NPP 6y 9m 10y NPP 7y 6m 14y NPP 10y 6m 8y 6m 3y NPP 2y 3m 2y 4y 3y NPP 2y 3m 9m 4y <u>Aggregate:</u> 24y NPP 18y	AD	Extensive history for personal violence offences, contravening AVO, stalking, intimidation, assault, reckless wounding, threaten witness, BES	SNPP 10 years “One of the most extreme cases of sadistic sexual violence perpetrated against a woman seen in this Court” - attacked female partner over 11-hour period - attempted to burn complainant - brutally physically and sexually assaulted - left complainant in a deserted area bleeding – complainant required surgery. History of family breakdown and State intervention – childhood sexual abuse - overall intellectual functioning in bottom 2% - Mild Intellectual Development Disability – Antisocial Personality Disorder - Substance Use Disorder – <i>Bugmy</i> principles – rehabilitation extremely poor - risk of reoffending medium–high CCA: error in applying wrong Maximum Penalty for Intimidation offence and Standard Non-Parole periods for s.33(1)(b) offences – however, no lesser sentence warranted

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
49.	Baker (31) [2022] NSWCCA 195	s.61J(1) s.61J(1) s.61J(1) s.61J(1) s.61J(1) s.61M(1) s.61M(1) s.61M(1)	VG	<u>Indicative</u> 11y 5m NPP 8y 13y 7m NPP 9y 6m 15y 9m NPP 11y 17y 2m NPP 12y 10y 9m NPP 7y 6m 5y NPP 3y 6m 5y 8m NPP 4y 6y 4m NPP 4y 6m <u>Aggregate:</u> 19y NPP 13y 4m	AD	Breached bond – added 4m to total sentence No other prior convictions	SNPP 10 years Picked up 17y female stranger walking along road late at night – complainant cognitively impaired and had left home of step-mother – drove complainant to bush reserve and sexually assaulted her for 20-30 mins – fondled vagina and breasts and forced her to hold penis – digital and penile intercourse – anal intercourse – forced fellatio – forced complainant into water to wash off evidence – told her not to tell anyone – aware of cognitive impairment Suffering PTSD from violent kidnapping and assaulted several years earlier
50.	SS (a pseudonym) (48) [2022] NSWCCA 258	s.61J s.61I Sched: AOABH Choking offence	PG (5%)	<u>Indicative</u> 7y NPP 3y 6m 4y NPP 2y <u>Aggregate:</u> 8y NPP 4y	Crown AA <u>Indicative</u> 8y 6m NPP 5y 5y 6m NPP 3y <u>Aggregate:</u> 9y 6m NPP 5y 9m	Nil	SNPP 10 years Brutal attack on estranged wife when she came to house to pick up 2y daughter – punched complainant three times to face and choked and covered mouth and nose – fourth punch caused unconsciousness and complainant woke to find penile / vaginal penetration – moved to bedroom to find hiding child and second forced intercourse occurred – no use of condom and ejaculation – aware no consent – significant injuries – aggravated by occurring in former home of victim and in presence of child – significant domestic violence – brutal attack – spontaneous and unplanned – offences well above mid-range and mid-range Remorse – unlikely to re-offend – good prospects of rehabilitation – brain injury On appeal: error in assessing objective seriousness – too much weight given to mental health issues – error to allow fifty per cent ratio for special circumstances – manifestly inadequate

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	INVOLVEMENT & SUMMARY
51.	Starke (a pseudonym) (19, 22) [2024] NSWCCA 11	s.61J Intimidation	VG	<u>Indicative:</u> 7y NPP 4y 6m 4m <u>Aggregate:</u> 7y 4m NPP4y 9m	Crown AD	Nil relevant – s.10 bond for damage property offence	SNPP 10 years Lived in caravan on property of family – entered home when family left, locked door and sexually assaulted cognitively impaired 18y sister – malicious assault causing injury to head, nose and vagina – ejaculated inside complainant – made threats – when complainant told father three years later offender evicted from caravan – drove car past house doing burnouts and making threats to complainant in garden – vulnerable complainant assaulted in own home – mid-range Cognitive impairment On appeal: open to SJ to impose lower sentence to achieve sentencing purposes of rehabilitation and prevention of further offending in view of offender’s youth and cognitive impairment
52.	Dennis (23) [2024] NSWCCA 137	s.61J s.61J Sched: Intimidation	PG (25%)	<u>Indicative:</u> 6y 6y 9m NPP 3y 9m <u>Aggregate:</u> 7y 6m NPP 4y 2m	AA <u>Indicative:</u> 5y 6y NPP 3y <u>Aggregate:</u> 7y NPP 3y 9m	Nil relevant	SNPP 10 years Met victim and her partner at hotel and continued socialising at home of victim – walking with victim from shop forced digital penetration and attempted anal penetration – threatened partner on return to home – offences aggravated by casing abh – lower end of mid-range Indigenous man – remorseful and accepted responsibility – substance abuse and personality disorders – positive approach to rehabilitation On appeal: erroneously took into account juvenile record

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