

Aggravated Car Jacking

s.154C(2) (NSW) Crimes Act

s 154C(1)

(a) assaults another person with intent to take a motor vehicle or vessel and, without consent, takes and drives it, or takes it for the purpose of driving,
or

(b) without consent takes and drives or takes for the purpose of driving a motor vehicle or vessel, when a person is in or on it

(2) Commits offence under subsection (1) in circumstances of aggravation

Maximum Penalty: 14 years

(3) Circumstances of aggravation means any one or more of the following:

(a) alleged offender is in company of another person or persons,

(b) alleged offender is armed with an offensive weapon or instrument,

(c) alleged offender intentionally or recklessly inflicts actual bodily harm on any person.

Commenced 14.12.2001

| | NAME (age if known) | OFFENCE | Aggravating Circumstance | PLEA | SENTENCE | APPEAL | RECORD | SUMMARY |
|----|---|---|-----------------------------|-------------|--|--------|----------------|---|
| 1. | Campbell (30) [2003] NSWCCA 176 | Att s.154C(1) s.154C(2) s.154C(2) Sched: 3 offences | inflict ABH inflict ABH | PG (20%) | FT 1y 4y NPP 18m FT 18m (all concurrent) | AD | Lengthy record | Struggled with male victim sitting in car at service station – victim thrown in front of on coming car but not struck – entered second car, grabbed steering wheel and used accelerator from passenger side – collided with another vehicle and hit female driver with elbow – bit female driver of third car on hand, took keys and stole car – suffering drug induced psychosis at offence Brain injuries from previous accident – dysfunctional childhood |

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| 2. | Tuncbilek (25) [2004] NSWCCA 139 | s.154C(2) Assault with intent s.97(1) | In company | PG (25%) | 7y NPP 4y 6m 7y <u>Total:</u> 10y NPP 7y 6m | AA 5y NPP 3y 5y 4m NPP 3y 6m <u>Total:</u> 7y NPP 5y | Breached parole – lengthy record | SNPP – 5 years Attempted to rob victim with small silver pistol – left when victim indicated no money – 2 weeks later pulled 54y female victim from her car – during struggle for keys punched victim several times in head area Early drug abuse – intellectual disability |
| 3. | Drew (22) [2005] NSWCCA 50 | s.154C(2) 4 summary offences | Armed with offensive implement | PG (20% on appeal) | 5y NPP 3y | AA 4y NPP 2y | Breached bond – record includes violence | SNPP – 5 years Female – demanded keys from female victim in car while holding scissors – punched victim twice in face during struggle – threw rock breaking back window – victim and passengers fled car – offender drove off crashing car short time later Deprived background – alcohol abuse – intoxicated at time of offence |
| 4. | Pritchard (21) [2006] NSWCCA 2 | s.154C(2) s.97(1) Escape Sched: 6 offences | Armed with offensive implement | | 5y NPP 3y 5y NPP 3y FT 12m <u>Total:</u> 6y NPP 4y | AD | Lengthy record | SNPP – 5 years Escaped from Correctional Centre – at large over 2 months – took mobile phone and car from custodial officer |
| 5. | Barker (19) Gibson (22) [2006] NSWCCA 20 | s.154C(2) Sched: 2 x carried in conveyance s.154C(2) Sched: 2 x carried in conveyance | In company | PG (15%) PG (15%) | 3y 6m NPP 18m 3y 6m NPP 18m | Crown AA Sentences to commence at later date to reduce concurrency with existing sentences | Multiple offences – breached bond Multiple offences | SNPP – 5 years 2 offenders and juvenile stole car in Dubbo – pursued by police near Orange and abandoned car – second vehicle stolen in Bathurst – police chase to Penrith where car crashed and abandoned – approached victim alighting from car – threatened to kill and pushed over – drove off in car – opportunistic offence – low violence B – aboriginal – low intelligence – early drug abuse G – aboriginal – illiterate – early drug abuse |

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| 6. | MB (17/18) [2007] NSWCCA 245 | s.154C(2) s.35 | In company | VG PG | 7y 6m NPP 5y 4y NPP 2y 6m <u>Total:</u> 7y 6m NPP 6y | AA 5y NPP 3y 4y NPP 18m <u>Total:</u> 6y NPP 4y | Record including violence offences | SNPP – 5 years During confrontation with police threw beer bottle striking officer in face – serious injuries – 8m later punched driver and stole car while in company of co-offender Troubled childhood – drug addiction – some prospects of rehabilitation |
| 7. | Matthews (23) [2007] NSWCCA 294 | Att s.154C(2) s.95(1) | In company | PG (25%) | 2y 3m 15d NPP 12m PD 21m 15d NPP 12m (concurrent) | Crown AD | Breached bond | SNPP – 5 years Put arms around throat of taxi driver and demanded money – pushed driver out of taxi and drove off – opportunistic – towards bottom of range Drug problem – prospects of rehabilitation – remorse On appeal: sentences inadequate - discretion exercised due to rehabilitation |
| 8. | Burns (32) [2008] NSWCCA 260 | s.154C(2) Att s 97(2) | Armed with offensive weapon | PG (25%) | FT 3y 7y NPP 4y 6m <u>Total:</u> 8y 6m NPP 5y 6m | AA FT 3y 6y 4m NPP 4y 6m <u>Total:</u> 7y 4m NPP 5y 6m | Extensive record including robbery | SNPP – 5 years Attempted to rob post office with replica pistol – grabbed keys from woman on street and stole car to get away Early drug addiction – mental illness |
| 9. | Alkanaa (19) [2009] NSWCCA 44 | s.154C(2) Att s.154C(2) Mal discharge firearm w/l to cause GBH Sched: Att s.154C(2) | In company – armed with offensive weapon | PG (20%) | 6y NPP 4y 2y 3m NPP 1y 9m 4y NPP 1y <u>Total:</u> 8y NPP 5y | Crown AA Adjustment to accumulation <u>Total:</u> 9y NPP 6y | Record including discharge firearm | SNPP – 5 years Approached and threatened female driver with pistol – victim drove off – took car from car wash after threatening attendant and owner with gun – three days later attempted to enter car at traffic lights – up to ten shots fired at car as it drove off – struck driver in shoulder – s.154C(2) offence mid-range Iraqi national exposed to violence – low intelligence – early drug addiction |

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| 10. | Trad (20) (2009) 194 A Crim R 20 [2009] NSWCCA 56 | s.154C(2) 2 x Rob in Co Dishonestly interfere with a unique identifier – s.154H Dispose stolen property Sched: One offence | In company | VG VG PG VG | 5y NPP 3y FT 2y FT 11m FT 2y <u>Total:</u> 8y 3m NPP 5y 3m | AD | Breached conditional liberty – record for relatively minor offences | SNPP – 5 years Arranged to meet victim to discuss sale of car – attended with four co-offenders – co-offender produced what appeared to be firearm – stole personal items from victim and brother-in-law – threatened victims with firearm and drove off in car – changed engine identifiers – sold vehicle, stole vehicle from purchaser and burnt it out – car jacking carefully planned – mid range offence |
| 11. | Assaad (20) [2009] NSWCCA 182 | s.154C(2) Rob in Co AR Sched: Assault w/i rob | In company – armed with offensive weapon | PG | 2y 6m NPP 1y 3m 2y 6m NPP 1y 3m 2y 6m NPP 1y 3m <u>Total:</u> 3y NPP 1y 9m (Periodic Det) | Crown AD Sentences inadequate - discretion exercised due to rehabilitation | Serving sentence of periodic detention | SNPP – 5 years Robbed jewellery store with co-offenders – victims tied up and watched over by offender with knife – on separate occasion robbed taxi driver at knifepoint with co-offender – driver forced out of taxi and vehicle driven off Drug addiction and mental illness due to traumatic life events – significant rehabilitation |
| 12. | Graham (31) [2009] NSWCCA 212 | Assault with intent s.154C(2) Sched: Larceny | In company | PG (50% plea and assist) | 4y NPP 2y | AD | Breached conditional liberty – substantial record | SNPP – 5 years Female prostitute – in car with victim for purposes of providing sexual services – co-offender threatened victim with knife and demanded car keys – stole car and \$400 from wallet – planned offence committed for money – no prior knowledge co-offender would use knife Remorse - sexually and physically abused as a child – early drug abuse – addicted to ice – mental health issues requiring intensive treatment |

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| 13. | Aguirre (19) [2010] NSWCCA 115 | s.154C(2) s.97(2) s.97(2) Sched: Aid and abet s.154C(2) | Armed with offensive weapon | PG (25%) | FT 4y FT 6y 6y NPP 2y <u>Total:</u> 12y NPP 8y | AA 6y NPP 4y FT 6y 6y NPP 2y <u>Total:</u> 12y NPP 8y | Breached bail – prior record but no priors for driving of robbery offences | SNPP – 5 years With co-offender approached driver of car in driveway of victim's house – threatened with knives, dragged driver out of car to ground – drove off with car valued at \$147,000 - used car in robbery of armoured truck – 4 co-offenders armed with handguns – placed guard in headlock and pushed gun against neck – on separate occasions inspected car for sale – co-offender pushed driver out and drove off in car – used car to rob second armoured truck - substantial degree of planning to all offences – all above mid-range Extensive drug use prior to offences – limited prospects of rehabilitation Error in failing to set NPP for aggravated car jacking where SNPP applied |
| 14. | Foster [2011] NSWCCA 285 | s.154C(2) Use weapon to avoid arrest Receiving s.166 Certificate 5 driving offences | Armed with offensive weapon | VG | 8y NPP 6y 6y NPP 3y FT 18m <u>Total:</u> 11y NPP 8y | AA 7y NPP 5y 5y NPP 2y FT 18m <u>Total:</u> 9y NPP 6y | includes violence and resisting police | SNPP – 5 years Threatened female with scissors and demanded car – demanded victim accompany him in car – victim escaped while offender trying to start car – drove off erratically colliding with car and pine tree, mounting footpath and entering garden of house – fled on foot and attempted to evade police brandishing scissors – intoxicated – about or just above mid-range |
| 15. | Baghdadi (19) [2012] NSWCCA 212 | 2 x s.154C(2) s.154C(2) 3 x Fire firearm in public | Armed with offensive weapon | PG | 8y NPP 5y 8y NPP 5y FT 2y <u>Total:</u> 12y NPP 9y | AA 8y NPP 5y 8y NPP 4y FT 2y <u>Total:</u> 12y NPP 8y | lengthy – includes armed robberies and car jacking | SNPP – 5 years Offences committed on three occasions – cut off driver and threatened with hand gun – fired gun into ground – drove off in car – on second occasion attempted to take car – threatened driver and fired shots into bonnet – on third occasion approached car with co-offender – co-offender threatened driver with gun – worse than mid-range |

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| 16. | Hammond [2013] NSWCCA 28 | s.154C(2) Summary offence | Armed with offensive weapon | | 6y NPP 4y 6m FT 6m (concurrent) | AD | | SNPP – 5 years Forced victim to drive offender and friends in car – made threats during journey – threatened victim with knife to throat- victim punched by offender's friend – offender drove car with victim as passenger |
| 17. | Dawson (28) [2015] NSWCCA 236 | s.154C(2) Police pursuit Police Pursuit s.33B(1)(a) Sched: 4 offences | Armed with offensive weapon | PG | 7y NPP 4y 18m NPP 9m 2y NPP 12m 4y NPP 3y <u>Total</u> 9y 6m NPP 6y 6m | AD | offences involving stolen cars and driving including dangerous driving causing death | SNPP – 5 years Stole car and petrol – observed speeding by police officer who commenced pursuit – dangerous driving resulted in losing control and colliding with another vehicle – threatened off-duty police officer with knife before forcing car on motorway to stop and entered passenger seat – threatened driver with knife and instructed to drive in manner dangerous to avoid second pursuit – driver slowed down and alighted – offender took over driver pursuit stopped Low intelligence – early drug user |
| 18. | Kelly [2021] NSWCCA 205 | s.154C(2) Sched: Reckless driving Summary off: Drive unlicensed 6 x Fail to stop | recklessly inflicts actual bodily harm | PG (25%) | 3y 9m NPP 1y 9m Conviction – no further penalty | AD | History disentitles offender to leniency – breached bail for domestic violence offences | SNPP – 5 years Entered car of 89y male driver in slow moving traffic – when car stopped at petrol station forcibly ejected driver to ground – drove off in car – collided with seven vehicles – impulsive offence Dysfunctional upbringing – guarded prospects of rehabilitation On appeal: erroneously took into account breach of bail as aggravating seriousness of offence – on re-sentence found offence mid-range |

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