

Wound With Intent to Cause GBH

s.33(1)(a) (NSW) Crimes Act

s 33(1)(a) Wound with intent to cause GBH

Maximum Penalty: 25 years

Standard non-parole period: 7 years (offences committed on or after 1.2.2003)

Commenced: 15.2.2008

| NAME (age if known) | OFFENCE | PLEA | SENTENCE | APPEAL | WEAPON | RECORD | SUMMARY |
|--|----------------|-------------|--------------------|----------|---------------|---|---|
| Simkhada (29) [2010] NSWCCA 284 | s.33(1)(a) | PG (25%) | 3y 9m NPP 2y 6m | AD | Piece of wood | Breached bond for damaging property offence and AVO | SNPP 7y Attacked estranged wife with piece of wood outside house – spontaneous offence - breached AVO – below mid-range, towards lower range Nepalese - mental health problems following neurosurgery – genuine remorse |
| Woon (74) [2010] NSWCCA 335 | 2 x s.33(1)(a) | PG | 10y NPP 7y | AD | Scissors | Nil | SNPP 7y Stabbed 71y female repeatedly with large pair of scissors in her home believing she was spreading rumours about him - seven stab wounds to head, two between neck and shoulder and one to abdomen - two wounds were life threatening - also stabbed victim's 80y wheel-chair bound husband three times to left shoulder – chest wound life-threatening - prolonged and vicious attack. Out of character. |
| SB (18) [2011] NSWCCA 95 | s.33(1)(a) | VG | 7y NPP 4y | Crown AD | Knife | Nil significant - on bond. | SNPP 7y In company with 15y brother and another offender – other offender instigated fight with victim and friend at train station – victim began punching brother - offender stabbed victim to arm and twice to chest – suffered life threatening and permanent injury - permanent nerve damage to legs and some muscle damage around chest - below mid-range - acted in excessive defence of brother Youth – rehabilitation. |

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

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|--|--------------------------|---------------|---|---|------------------|--|--|
| Aitchison [2012] NSWCCA 82 | s.33(1)(a) | VG | 9y NPP 6y | AA 7y NPP 4 y 6m | Knife | Assault, Mal wound, AOABH, Possess firearm | SNPP 7 years Attended victim's home with co-offender – stabbed victim under armpit – plan to extract drugs from victim – planned offence Drug and alcohol abuse. (Re-sentenced in accordance with <i>Muldrock</i>). |
| Carroll [2012] NSWCCA 118 | s.33(1)(a) | PG (17.5%) | 8y 3m NPP 6y | AA 6y NPP 4y | Knife | | SNPP 7 years Road rage incident – victim almost collided with offender – further down road screaming and verbal argument – victim held piece of wood over his head to protect himself – offender took knife from car and slashed victim's arm and face - deliberate and intentional On appeal irrelevant material considered when finding offence above mid-range - failure to reflect discount for plea - failure to reflect finding of special circumstances. |
| Aldous [2012] NSWCCA 153 | s.33(1)(a) | VG | 6y NPP 3y | AD | Schooner glass | | SNPP 7 years Struck victim on back of head during poker game at hotel – victim running game – upset at being stood out of game for ten minutes – intoxicated – just below mid-range |
| JB (17) [2012] NSWCCA 196 | s.33(1)(a) | PG (25%) | 5y 3m NPP 3y | AD | Assault | Significant including assaults | Assaulted another youth in park – punched victim to head 8-10 times – returned to continue assault – intoxicated Difficult childhood – remorse and some evidence of rehabilitation |
| Prince [2013] NSWCCA 274 | s.33(1)(a) Affray | VG | 6y NPP 4y FT 18m <u>Total:</u> 6y 6m NPP 4y 6m | AA 5y 6m NPP 3y 5m FT 18m <u>Total:</u> 6y NPP 4y | machete or sword | long record | SNPP 7 years Part of group who became involved in affray in park near home of acquaintance – during affray victim cut to head with machete or sword – on appeal not established offender inflicted wound - joint criminal enterprise No remorse – little prospects of rehabilitation – Aboriginal with childhood exposure to violence and deprivation – alcohol addiction |
| Ramea [2013] NSWCCA 310 | s.33(1)(a) | PG (25%) | 9y NPP 6y | AD | Glass | Priors – breached conditional liberty | SNPP 7 years Unprovoked attack by passenger on taxi driver using glass – spontaneous but sustained assault – could not pay fare – slightly above mid-range Remorse – good prospects of rehabilitation |

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| Elturk (40) [2014] NSWCCA 61 | s.33(1)(a) Stealing | PG (20%) | 8y NPP 4y s.10A | AA 6y 6m NPP 3y 6m s.10A | Knife | Not excessive | SNPP 7 years Stole knife from shop – approached father watching TV from behind and drew knife across neck causing serious wound Suffering lengthy history of major mental illness |
| Ivory [2014] NSWCCA 181 | s.33(1)(a) 2 x s.99(2) | PG | 8y 6m NPP 5y FT 2y 3m <u>Total:</u> 8y 9m NPP 5y 3m | AD | steel bar and shotgun | not extensive | SNPP 7 years In company with co-offenders threatened owner of newly opened tattoo shop – demanded and received \$200 protection money – identified as members of bikie gang – as Sergeant at Arms of club involved in taking male victim to cemetery late at night and assaulting him in company with steel bar and shotgun |
| Porter (21) [2015] NSWCCA 59 | s.33(1)(a) Sched: 2 offences | PG (25%) | 5y NPP 3y | AD | Machete | nil | SNPP 7 years Attacked male with machete striking victim's left arm – came to victim's home late at night – attack due to animosity between offender and victim's son. Aboriginal – disturbed upbringing |
| McVittie (33) [2015] NSWCCA 92 | s.33(1)(a) Sched: Agg Kidnapping | PG (25%) | 5y 6m NPP 3y 4m | AD | Knife | Lesser assault offences | SNPP 7 years Invited victim to house then detained him – attacked with knife – 3 stab wounds – struck with dumbbell bar and hammer and punched – sought to have victim agree to delusional belief that he was talking to offender's girlfriend about killing offender Suffering mental illness |
| Muggleton [2015] NSWCCA 94 | s.33(1)(a) | PG (15%) | 6y 6m NPP 4y | AD | schooner glass | not aggravating | SNPP 7 years Smashed schooner glass forcibly into face of male stranger at hotel then grabbed victim by neck and kneed and punched in face – unprovoked attack – spontaneous and excessive response due to PTSD – below mid-range |
| Newman (21) [2015] NSWCCA 270 | s.33(1)(a) | VG | 6y 6m NPP 3y 6m | AA 4y NPP 2y 2m | metal pole | destroy or damage property, enter enclosed land | SNPP 7 years Argument with acquaintance believing he had stolen money from offender's girlfriend – hit victim over head with metal pole – victim in mobility scooter – both had been consuming alcohol – suffered swelling and laceration requiring 5 sutures – offence at low end of seriousness Dysfunctional upbringing - borderline intellectual deficiency. |

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| Kierman (32) [2016] NSWCCA 12 | s.33(1)(a) | PG (25%) | 7y 6m NPP 5y | AD | knife | Poor record - violence | SNPP 7 years Went to caravan of male acquaintance with intention to rob – became angry during conversation and attacked victim with knife – slashed throat and stabbed in leg during struggle Childhood subjected to ritual and constant physical, sexual and psychological abuse |
| Kennedy (18) [2016] NSWCCA 123 | s.33(1)(a) | PG (10%) | 6y 6m NPP 3y 6m | AD | Knife | Assault, damage property. On bond. | SNPP 7 years Offender and 15y victim known to each other - victim and four younger friends went to offender's home at night, taunting and challenging him to come outside – offender came out with knife with 10cm blade - punched victim in eye, splitting his eyebrow - victim walked away but offender chased him and hit victim again before stabbing him in arm and lower side of chest – upper mid-range Substantial disadvantage - bullied at school –mental health issues. |
| Kelly [2016] NSWCCA 246 | s.33(1)(a) s.33(1)(a) 3 x AOABH Destroy property | PG | <u>Indicative:</u> 8y 8y 3y 2y <u>Aggregate:</u> 12y NPP 9y | AA 6y 9m NPP 4y 8y 3m NPP 4y 2y 9m 18m <u>Total:</u> 11y 3m NPP 7y | glass | | SNPP 7 years Smashed window of room staying at in hotel – took pieces of glass wrapped in sock downstairs – stabbed male sitting on steps of nearby hostel in arm and leg – grabbed second victim from behind and stabbed to neck and head five times – stabbed third victim and assaulted two more in struggle to escape Mental health issues considered on appeal |

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| Lulham (40) [2016] NSWCCA 287 | s.33(1)(a) | PG (25%) | 2y NPP 1m 13d | Crown AD (exercise of discretion) | Hammer | Juvenile | SNPP 7 years Lived with friend and her mother for many years – became angry at husband of mother upon discovering he had been mistreating mother and sexually assaulting friend – smashed property and car of victim with hammer – hit victim twice on head with hammer – developing tension in household – degree of planning – injuries not serious After difficult childhood and period of homelessness came to live with female friend and her mother at 18y – developed protective feelings towards both – anger management problems – accepted responsibility and genuine contrition – discretion to dismiss based on expiry of NPP and evidence of rehabilitation |
| Drew [2016] NSWCCA 310 | s.33(1)(a) Breach ADVO | PG (10%) | 12y 6m NPP 9y 4m FT 12m (concurrent) | AD | Knife | Includes 35y of violence including domestic abuse of several partners | SNPP 7 years Stabbed partner twice in stomach – pursued her out of house on to road – sustained and prolonged attack – life threatening although not permanent injuries – context of domestic violence – ADVO related to hitting victim over head with wood, stabbing in both legs and detaining in bedroom – made serious threats – intoxicated - in home of victim Aboriginal – deprived background – poor health |
| Vaiusu (25) [2017] NSWCCA 71 | s.33(1)(a) | PG (25%) | 2y 3m NPP 1y 2m | AD | Broken glass | Driving offences only. | SNPP 7 years Female – male victim married to offender's sister – stabbed victim in neck three times with glass from broken beer bottle – mistakenly thought that victim had purposely hit offender's sister - below mid-range objective seriousness. Suffering major depressive order at time of offending - remorse – forgiven by victim and sister – good rehabilitation prospects |
| Xue (51) [2017] NSWCCA 137 | s.33(1)(a) | PG (25%) | 6y NPP 4y | AD | Knife | Assault | SNPP 7 years Assaulted wife believing she was having an affair – held knife to victim's throat and grabbed throat – caused wounds to neck and hands. |

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| Lloyd [2017] NSWCCA 303 | s.33(1)(a) s.33(1)(a) Sched: Affray | PG (10%) | 2y 2m NPP 1y 4m 3y 6m NPP 1y 9m <u>Total:</u> 4y NPP 2y 3m | AD | Knife | Nil | SNPP 7 years After verbal confrontation with 15y male acquaintance in shopping centre waited outside shop while brother purchased knives – located 15y outside centre and punched to head – during subsequent affray brothers stabbed father and older brother of acquaintance multiple times – offender cheered on stabbing and struck one victim lying on ground after stabbing – victims unarmed – mid-range – joint criminal enterprise Dysfunctional household exposed to violence at hands of father |
| Lunn-Reid (23) [2018] NSWCCA 110 | s.33(1)(a) AOABH | PG (10%) | 8y 4m NPP 5y 8m 2y 8m NPP 2y <u>Total:</u> 9y 6m NPP 6y 10m | AA 8y 4m NPP 4y 11m 9d 2y 8m NPP 2y <u>Total</u> (not indicated) | Knife | recklessly causing GBH in company; affray | SNPP 7 years Stabbed ex-female partner believing she had commenced relationship with another male - stabbed to head, face, and throat - victim fell to ground and rolled over, and was stabbed in back – swung knife at victim's sister who intervened – cut second victim's face. Schizophrenic illness since age 15 - danger to community |
| Hookey [2018] NSWCCA 147 | s.33(1)(a) | | 3y 8m NPP 2y 2m | Crown AD | Knife | Wound with intent, violence – breached parole. | SNPP 7 years Road rage incident – victim approached offender's vehicle after incident – co-offender assaulted victim – offender stabbed victim three times. Aboriginal background. |
| Gwilliam (37) [2019] NSWCCA 5 | s.33(1)(a) | PG (10%) | 13y 6m NPP 8y 6m | AD | Knife | Limited - dishonesty. | SNPP 7 years Stabbed victim multiple times – offender had purchased drugs from victim – hoped to obtain drugs without having to pay – brought knife to scene, however, not established he intended to stab victim – suffered significant scarring to face and body, and permanent nerve damage to hands. Employed – family support – drug abuse. |

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| Udovic (28) [2019] NSWCCA 196 | s.33(1)(a) AOABH in company | PG (< 5%) | 9y NPP 6y 9m 3y 1m NPP 2y 3m <u>Aggregate:</u> 10y NPP 7y 6m | AD | baseball bat / knife | minor | SNPP 7 years One of three men involved in home invasion late at night – armed with baseball bat – co-offender armed with knuckle duster – one male occupant threatened with knife and assaulted by co-offender – offender struck another male occupant 21 times with bat – same victim stabbed by co-offender – wounding offence slightly above mid-range |
| Loeung (36) [2019] NSWSC 1172 N.Adams J | s.33(1)(a) s.114(1)(a) armed with intent | VG at murder trial | 20m ICO No penalty | | knife | nil | SNPP 7 years Offender and co-offender responded at night to call for assistance by female neighbour against her boyfriend – after initial confrontation boyfriend left then returned to street with eight friends having lied that offender had made threats – boyfriend initiated affray – offender responded with large knife – stabbed one male fatally to abdomen (acquitted of murder on basis of self-defence) – victim taken to hospital in one car - offender and co-offender retrieved more knives from house and approached boyfriend and three friends in car unable to leave because of lost keys – offender stabbed boyfriend to leg – final stabbing act of excessive self-defence and provocation – knives originally obtained for self-defence – both offences low range seriousness Prior good character – born in Cambodia – offender and family, including children suffering anxiety as a result of incident – low risk of re-offending – very good prospects of rehabilitation – suffering on-going injuries to hands as result of grabbing knife in self-defence (extra curial punishment) – parity with victims |
| Murray (25) [2019] NSWCCA 235 | s.33(1)(a) | PG (25%) | 7y NPP 4y 6m | AD | Knife | Lengthy – including violence | SNPP 7 years Stabbed sister repeatedly in head, body, neck and arm – no provocation - under influence of methylamphetamine (ice) or in withdrawal phase – spontaneous attack - absence of premeditation or planning - short duration. Absence of known motive – unexpected grief at death of grandfather caused offender to lash out. Aboriginal background – drug abuse. |

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| Walsh (38) [2020] NSWCCA 183 | s.33(1)(a) | VG | 9y 4m NPP 7y | AD | Knife | Lengthy including violence – breached parole | SNPP 7 years Entered home mid-afternoon and repeatedly stabbed male victim sleeping in bed – vicious, cowardly and sustained attack – no motive – victim suffered life threatening wounds to chest, neck and head – attack stopped when victim escaped – above mid-range Chronic mental illness including schizophrenia – disrupted and traumatic childhood including sexual abuse – continued extreme violence and mental illness in family – effect of mental illness on custody – risk of danger balanced with causal connection between offending and mental illness |
| Stonestreet [2020] NSWCCA 212 | s.33(1)(a) | PG (25%) | 4y 6m NPP 3y 1m | Crown AA 5y NPP 3y 1m | Knife | | SNPP 7 years Mentally ill offender – schizophrenia / psychosis - stabbed father multiple times whilst experiencing extreme paranoia and delusion. CCA: Lacked insight into mental condition; noncompliant with treatment regime; failure to treat illness posed significant and ongoing risk - required longer supervision – no interference with non-parole period which had already expired. |
| Vincent (52) [2020] NSWCCA 271 | s.33(1)(a) s.86(3) | PG (10%) | <u>Indicative:</u> 9y NPP 6y 5y 2m <u>Aggregate:</u> 10y NPP 7y | AA <u>Indicative:</u> 7y 8m NPP 5y 4m 5y <u>Aggregate:</u> 10y NPP 6y 8m | Knife and axe | Lengthy including violence, firearms, drugs and dishonesty | SNPP 7 years After dispute over money arranged for victim to attend home of co-offender – unexpectedly attacked victim with axe and knife causing wounds to arm and leg – tied up victim and drove away from house with victim in boot of car – victim detained for one and a half hours before escaping at service station – mid range offence Special circumstances based on need for extended supervision, risk of institutionalisation – difficult background causing significant criminogenic risk factors – domestic violence – father involved in organised crime – long term drug user On appeal: failure to give effect to finding of special circumstances in view of accumulation to existing sentence |

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| BC (17) [2020] NSWCCA 329 | s.33(1)(a) Common assault | PG (10%) PG (25%) | 8y NPP 4y 3w (concurrent) | AD | Knife | Sparse – damage property offence - treated as first time offender | Confrontation with victim over offender's assault of 14y boy several days earlier in shopping centre – later approached victim leaving shopping centre and threw plastic 'wet floor' sign from behind – pulled knife from pants and stabbed victim in chest – cowardly and unprovoked assault – aggressor – caused serious physical and psychological injuries - slightly above mid-range Death of brother and stabbing of offender by stranger several years earlier caused unresolved grief and PTSD – prospects of rehabilitation only fair |

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