

Cause GBH With Intent to Cause GBH

s.33(1)(b) (NSW) *Crimes Act*

s 33(1)(b) Cause GBH 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
1.	Miria [2009] NSWCCA 68	s.33(1)(b)	PG (25%)	2y suspended	Crown AA 4y NPP 2y	Beer glass	assaults	SNPP 7 years Hit victim in back of head with beer glass at hotel - level of grievous bodily harm not high - lower than mid-range.
2.	Holten [2009] NSWCCA 234	s.33(1)(b)	PG (25%)	6y NPP 3y 6m	AD	Punch and bite	Lengthy including numerous violence offences.	SNPP 7 years 16y male victim approached offender concerned about female in offender's company – offender threw punch at victim – struggle commenced – police approached and observed offender to bite victim's ear - permanent disfigurement to ear - mid range. Intoxicated at time - alcohol addiction.
3.	Stunden (19) [2011] NSWCCA 8	s.33(1)(b) Larceny Sched: Possess cannabis	PG (25%)	3y NPP 2y Periodic Detention \$500 fine	Crown AA 4y NPP 2y 6m	Punching and kicking	Breached bond for assault and property damage	SNPP 7y Altercation with 16y outside high school – upset over break up with girlfriend who had commenced relationship with victim – sustained punching and kicking - element of provocation that victim summoned offender to scene and started fight by throwing his bike at offender – serious facial and eye injuries - effectively blind in one eye - only marginally less than mid-range 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.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
4.	JM (17) [2012] NSWCCA 83	s.33(1)(b) Affray	PG (10%)	7y NPP 4y FT 12m (concurrent)	AA 5y NPP 3y FT 12m (concurrent)	Punching and kicking	Nil	Street fight after party between youths – kicked and punched victim and bashed head against bitumen – element of pre-meditation – serious long-term injuries - involved in assault on second victim – intoxicated and responding to earlier racial slur Strict bail conditions – Aboriginal - remorse – excellent prospects of rehabilitation
5.	AM (16) [2012] NSWCCA 203	s.33(1)(b)	PG (25%)	7y NPP 3y	AD	Punching, kicking and stomping	Nil	Unprovoked attack upon innocent stranger – victim punched repeatedly to face – prone victim then kicked and stomped on head – suffered traumatic brain injury – permanent cognitive impairment Affected by alcohol - dysfunctional background – strong subjective features
6.	Bugmy (31) [2012] NSWCCA 223 [2014] NSWCCA 322	s.33(1)(b) 2 x s.60A(1) (assault prison officer)	PG (25%)	6y NPP 4y FT 8m Total: 6y 3m NPP 4y 3m	After High Court appeal matter returned Crown AD (in exercise of discretion)	Pool balls	Lengthy	SNPP 7 years While on remand in prison became angry at visiting hours – threatened prison officer – threw pool balls at two officers – threw pool ball at third officer striking him in eye – loss of site, PTSD and loss of career – spontaneous offence Aboriginal with difficult childhood – mental disorder
7.	Galbraith (27) [2013] NSWSC 284 Harrison J	s.33(1)(b) Affray	VG	3y NPP 2y FT 6m (concurrent)		Punch	Nil	SNPP 7 years Party in street where offender's brother lived caused some disruption – offender and third brother came to house then all left in car – came across three victims who had attended party – offender hit one victim to head who fell unconscious to ground – friend of victim killed when he ran into oncoming car trying to escape – unplanned –unprovoked vicious attack. Prior good character – rehabilitation prospects – remorse.
8.	Duncombe (21) [2013] NSWCCA 271	s.33(1)(b) Sched: Affray	PG (10%)	8y NPP 5y	AD	Sledge- hammer	AOABH, damage property, BES - on parole.	SNPP 7 years Hit victim on back and to head and face with sledgehammer – altercation between neighbours – large group of persons confronting one another – victim suffered fractures and injuries confining him to hospital for 9 days. Drug use – limited intellectual capacity

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
9.	Tuuta (19) [2014] NSWCCA 40	s.33(1)(b)	VG	6y NPP 3y 7m 6d	Crown AA 6y 8m NPP 5y	Punch	Breached parole for similar offence – record for violence	SNPP 7 years Punched female acquaintance waiting for taxi several times to face – unprovoked and unexpected attack – fractured jaw Drug abuse
10.	Peters [2014] NSWCCA 49	s.33(1)(b) s.35(4)	VG	10y NPP 6y 6m 3y NPP 2y <u>Total:</u> 11y NPP 7y 6m	AD	Pipe and knife		SNPP 7 years Struck victim working on rural property from behind with pipe – struggled on ground striking victim to head several times - threatened to cut throat then used knife to saw off part of victim's index and little fingers – mid range - planning
11.	Lolesio [2014] NSWCCA 219	2 x s.33(1)(b)	VG	4y NPP 2y	Crown AA 7y NPP 4y	Assault	juvenile	SNPP 7 years Assaulted 6w baby on two occasions 7 days apart – caused 14 fractures to legs, ankles, feet and ribs – injuries to arms – haematoma caused by severe shaking Low intellectual capacity – suffering stress – good prospects of rehabilitation
12.	Dacey (27) [2014] NSWSC 1452 RA Hulme J	s.33(1)(b)	VG (at murder trial)	7y NPP 5y		Knife	Lengthy	SNPP 7 years Stabbed victim during argument over drugs and money – victim died a few days later – in company of offender's brother – barely knew victim - spontaneous offence - slightly below mid-range. Institutionalised – drug addiction – low prospects rehabilitation.
13.	De Wet [2015] NSWCCA 23	s.33(1)(b) s.86(3)	PG (10%)	9y NPP 6y FT 4y <u>Total:</u> 10y NPP 7y	AD	Punching, kicking and choking	Lengthy – including violence	SNPP 7 years Leader of group of males who kidnapped victim from home – sustained assault – kicked, punched and choked – offender bit off part of ear Drug abuse

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
14.	Thornton (39) [2015] NSWCCA 94	s.33(1)(b) AOABH	PG (10%)	6y 4m NPP 4y FT 1y Total: 7y 4m NPP 5y	AD	Punching and kicking	record includes violence	SNPP 7 years Unprovoked punch to head of male victim at nightclub – caused unconsciousness – found victim’s brother making phone call in foyer and punched him to head – with co-offender continued to punch and kick second victim to unconsciousness and caused fracture to side of face – intoxicated Violent childhood – suffering PTSD
15.	Bajouri (30) [2016] NSWCCA 20	s.33(1)(b) Common assault	PG (10%)	8y NPP 5y FT 3m (concurrent)	AD	Punching and stomping	Violence offences	SNPP 7 years Punched victim in face – while victim lying on ground stomped on face – suffered fractured facial bones - required internal fixation with plate and screw which will remain in place permanently Ex-professional footballer – involved in car accident which ruined his career – alcohol abuse - depression
16.	Wainwright (32) [2016] NSWCCA 19	s.33(1)(b)	PG (10%)	8y 1m NPP 5y	AD	Pushing and stomping – terracotta pot	Malicious wounding	SNPP 7 years Pushed female friend, who fell and was knocked unconscious – stomped and broke terracotta pot on head - suffered significant injuries - appalling savage sustained attack - repeated assaults upon defenceless young woman lying unconscious. Difficult upbringing.
17.	Ngatamariki [2016] NSWCCA 155	s.33(1)(b)	VG	5y NPP 3y	AD	Punching	AOABH (same victim)	SNPP 7 years Assaulted female partner – punched victim to head causing five separate facial fractures – serious injuries. Remorse – unplanned.
18.	Campbell [2016] NSWCCA 170	s.33(1)(b)	PG (10%)	7y 2m NPP 5y	AD	Punching and striking with elbow		SNPP 7 years Assaulted male victim at hotel whilst out drinking – acquainted with each other through Thai boxing – struck victim to face using elbow with great force - used Thai boxing technique – punched victim lying on ground – no provocation Alcohol issues.

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
19.	Dong, M (21) Marial (19) Dong, A (19) Mathiang (20) [2016] CCA 195	s.33(1)(b) s.33(1)(b) s.33(1)(b) s.33(1)(b)	PG (10%) PG (10%) PG (10%) PG (10%)	2y suspended 2y suspended 2y suspended 2y suspended	Crown AD (exercise of discretion)	Fence palings	Nil nil nil nil	SNPP 7 years Assaulted older male victim - victim had been arguing with and assaulting females in families of offenders – offenders came to talk with victim – victim attacked offenders with stick – offenders responded by attacking victim with fence palings that were lying nearby - returned to victim and recommenced attack – victim unconscious, suffered fractures to head and jawbone requiring surgery – sustained attack – not premeditated. Each offender of good character – students – from troubled overseas country – rehabilitation Discretion to dismiss because each offender showed successful rehabilitation in 3 years since offence
20.	Medcalf (31) [2016] NSWCCA 209	s.33(1)(b) s.111(2) – aggravated enter with intent	PG (25%)	12y NPP 8y 9m 7y NPP 5y 3m <u>Total:</u> 13y NPP 9y 8m	AA 9y 9m NPP 7y 3m 6y NPP 4y 6m <u>Total:</u> 10y 9m NPP 8y 3m	Assault	nil	SNPP 7 years Entered premises with electrical tape – struck female cleaner twice to side of head causing unconsciousness – placed second female cleaner in headlock and punched until unconscious – wrapped electrical tape around mouth of one victim – higher than mid-range Prior good character – genuine remorse
21.	Benson [2016] NSWCCA 267	s.33(1)(b)	VG	5y 6m NPP 3y	AD	knife		SNPP 7 years Female stabbed former husband with 17cm bladed kitchen knife while he was assisting with pool – unprovoked attack
22.	AB (20) [2017] NSWCCA 88	s.33(1)(b)	PG (20% - 25% combined)	6y 8m NPP 3y	Crown AA 6y 8m NPP 4y 4m	Baseball bat – kicking	Breach bond for affray – other minor offences	SNPP 7 years Assaulted ex-boyfriend of wife after learning of affair – in company with co-offender in park using baseball bat and kicking victim in head – permanent and significant physical and cognitive injuries - planned offence – well above mid-range Born in Iraq – traumatic childhood – some psychiatric conditions

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
23.	Nolan [2017] NSWCCA 91	s.33(1)(b)	PG (10%)	12y 6m NPP 8y 6m	Crown AA 15y 3m NPP 11y 6m	Assault		SNPP 7 years Assaulted 7-month-old nephew of de-facto – suffered brain injury resulting in catastrophic permanent debilitating and life-threatening conditions - breach of trust - offence not planned. In intellectual disability range and adaptive skills in mild intellectual disability range - prior good character -unlikely to re-offend - prospects of rehabilitation – remorse.
24.	Fadel (20) [2017] NSWCCA 134	s.33(1)(b) Intimidate	VG	6y 8m NPP 4y 2m FT 6m <u>Total:</u> 6y 10m NPP 4y 4m	AD	Kick to head	Nil	SNPP 7 years Violent affray broke out between neighbours on front lawn – history of disagreement – made threat to shoot member of neighbouring family – put work boots on and kicked second member in head – just below mid-range Difficult childhood – prior good character
25.	Smith [2017] NSWCCA 175	s.33(1)(b) Sched: Common assault	PG (15%)	4y 3m NPP 2y 1m	AD	Kicked with boots	nil	SNPP 7 years Female – forcibly kicked ex-husband in the head 3-4 times while he was on floor in hotel during altercation – altercation started by offender's current partner who attacked and punched victim and his friend – extended scuffle – offender resisted attempts by security staff to restrain her – kicked security guard in arm – spontaneous offence – towards lower end of mid-range – angry at lack of contact with daughters Effect of depression on imprisonment – prior good character
26.	Fouani [2018] NSWCCA 230	s.33(1)(b) Recruit child to carry out criminal activity	PG	12y NPP 9y FT 5y <u>Total:</u> 14y NPP 10y	Crown AA 16y NPP 2y FT 5y <u>Total:</u> 18y NPP 13y 6m	Petrol and set alight / burns		SNPP 7 years Began relationship with female victim – offender upset victim would not stop working as a prostitute – recruited MF to pour petrol on victim and set her alight – planned offence – suffered severe burns to 45% of body and face - recruitment of MF more serious and morally culpable by use of threats against MF's family and pistol - upper level of seriousness - sexual jealousy Absence of remorse or contrition

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
27.	Tohifolau (20) [2018] NSWCCA 283	s.33(1)(b)	PG (5%)	12y 4m NPP 9y	AD	Assault	includes violence	SNPP 7 years Entered cell in correctional centre and assaulted prisoner – victim suffered permanent brain danger and will require assistance for life – no motive – senseless violence No remorse
28.	Anderson [2019] NSWCCA 256	s.33(1)(b) Steal property from dwelling	VG PG (25%)	15y NPP 11y FT 15m (concurrent)	AD	Assault	lengthy record including significant violence – breached conditional liberty	SNPP 7 years Argued with friend in his home over debt – punched victim unconscious – continued assaulted by punching and stomping on motionless victim on floor – left home taking victim’s property – spontaneous offence – no weapon – caused catastrophic and lifelong injuries – upper range of seriousness Suffering chronic paranoid schizophrenic condition although not linked to offence – moderate to high risk of re-offending – guarded prospects of rehabilitation On appeal: sentence within range in view of nature of injuries and savagery of attack
29.	Horvath (24) [2019] NSWCCA 285	s.33(1)(b)	PG (10%)	7y NPP 4y	AD	Car	nil serious	SNPP 7 years Victim visiting offender’s neighbour – history of disputes between offender’s family and neighbours – after initial confrontation drove at victim standing in street and struck at low speed – reversed car then accelerated to strike victim and run over his legs – reversed car back over victim’s foot – deliberate acts – not spontaneous – no provocation – in presence of victim’s step daughter – mid-range Remorse and some insight – good prospects of rehabilitation – deprived childhood but not <i>Bugmy</i> level
30.	Field (40) [2020] NSWCCA 105	s.33(1)(b)	VG	6y NPP 4y	AD	Knife	Drugs. Damage property, larceny, drive disqualified. On bond.	SNPP 7 years Excessive self-defence - Victim punched applicant as applicant in relationship with victim’s girlfriend – applicant stabbed victim in stomach. Spontaneous – below mid-range - remorse Aboriginal background – dysfunctional violent childhood - drug addiction.

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
31.	Coats (44) [2020] NSWSC 1236 Campbell J	s.33(1)(b)	PG (25%)	6y NPP 4y		Mattock handle	Assault, AOABH, cultivate prohibited plant, BES. On bail.	SNPP 7 years Struck single blow with mattock handle to victim's head – victim died – acquitted of attempted murder-acted in response to seeing friend badly injured after fight between friend and victim – under influence of drugs - intent of inflicting really serious injury - intent formed spontaneously. Troubled upbringing - drug addiction.
32.	Noonan [2020] NSWCCA 346	s.33(1)(b) Sched: 4 offences s.166 3 offences	PG (25%)	10y 6m NPP 7y	AA 9y NPP 6y	Hatchet.	Nil.	SNPP 7 years Under care of aunt and uncle - struck uncle a number of times in head, abdomen and leg areas with a hatchet - victim suffered serious injuries including traumatic brain injury. Deprived upbringing – schizophrenia – psychotic episodes. CCA: Sentence manifestly excessive in circumstances of mental illness and broader subjective case.
33.	Tammer-Spence (25) [2021] NSWCCA 90	s.33(1)(b) s. 86(2)(b) Aggravated kidnap s. 99(2) Demand money with menaced in company	PG (no discount)	5y 6m NPP 3y 6m 5y 3y <u>Aggregate:</u> 7y NPP 4y	AD	Burn with hot water.	Armed robbery	SNPP 7 years Prison inmate – attacked fellow prisoner over payment of protection money owed by victim – poured hot water in kettle over victim's head – with fellow inmate threatened victim in shower not to tell anyone what had happened - violent and unprovoked attack - victim suffered permanent scarring; burns to 15% of body; underwent number of surgeries; hospital for three months. Drug abuse early age - profound childhood deprivation - risk of becoming “institutionalised” – <i>Bugmy</i> applied.
34.	Kuruppu (50) [2021] NSWCCA 261	s.33(1)(b)	VG	5y NPP 2y 6m	AD	Burn with hot water.	Domestic violence, assault, aggravated BE, choking, mid- range PCA.	SNPP 7 years Prison on remand – attacked fellow prisoner / cellmate during argument – poured / threw boiling water from kettle – victim suffered second degree burns to 10% of body - unprovoked attack but did not involve much planning or forward thinking.

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
35.	Wornes (46) [2022] NSWCCA 184	s.33(1)(b) s.166 2 x Contravene AVO Sched: 2 x assault	PG (25%)	8y NPP 5y s.10A conviction no penalty recorded	AA 6y NPP 4y		Nil - on bail for assault offences involving same victim	SNPP 7 years Female - unprovoked and sustained stabbing attack - domestic violence offences on 47-year-old male partner. Dysfunctional background, psychiatric history, personality disorder – alcohol use disorder. CCA: error in finding applicant's personality disorder did not attract <i>De La Rosa</i> principles

Last Updated: August 2022

This table is intended to be a guide only. Individual cases should be read if they are to be relied upon.