

## Dangerous Driving Causing GBH

s.52A(3) (NSW) *Crimes Act*

s.52A (3) ... vehicle driven by offender is involved in impact occasioning GBH of another person and driver was, at time of impact, driving vehicle:

(a) under the influence of intoxicating liquor or of a drug, or

(b) at a speed dangerous to another person or persons, or

(c) in a manner dangerous to another person or persons.

**Maximum penalty:** 7 years

**Commenced:** 23.12.1994

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
1.	<b>Smith</b> NSWCCA 4.3.1998	2 x s.52A(3)  Sched: 2 x s.52A(3)	PG	MT 2y 3m AT 9m	AD	Early juvenile record but since 'turned life around'	Overtook car across unbroken line on crest - collided with on-coming car - in country on dark, rainy, wet, very windy night - no alcohol / drugs or excessive speed. Aboriginal with good character
2.	<b>Pine</b> (49) NSWCCA 4.3.1998	3 x s.52A(3)  Sched: Drive unlicensed	PG	MT 2y AT 18m	AD	PCA – assault - 6 x drive while disq	Argument with wife in car - veered to left, mounted kerb and struck a tree - alcohol reading: 0.149. Serious medical problems with life expectancy 5-7 years - alcohol problems.

### ***Cases post- Jurisic 12.10.98 (Guideline Judgment)***

	CASE (AGE IF KNOWN)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	FACTS
3.	<b>Jurisic</b> (1998) 101 A Crim R 529	3 x s.52A(3)	PG	Home Det 18m 2y GBB	Crown AA MT 1y AT 1y (Backdated to commence date of original sentence)	Four driving related offences; many traffic offences	Driving along Warringah Freeway mid-afternoon - mounted kerb and hit wall - crossed back across six lanes, crossed median strip, entered oncoming traffic and hit V's car - father and two children injured - 0.05mg of cocaine in blood. Married, expecting child at time of offence.

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4.	<b>Pyritz</b> (52) NSWCCA 23.11.1998	s.52A(3)	VG	2y PD Disq 12m	AA Fine \$1000 Exceptional circumstances.	Nil - minor traffic in long history of driving.	Female drove through intersection colliding with car - passenger injured - "Momentarily preoccupied", "careless as distinct from deliberate," "slightly more serious than momentary inattention" - intersection very dangerous - view obstructed - lower end of scale of seriousness Excellent character Fresh evidence on appeal - hormonal imbalance.
5.	<b>Austin</b> (31) <a href="#">[1999] NSWCCA 101</a>	4 x s.52A(3)	PG	MT 3y AT 1y (concurrent)	AD	Bad driving record including speeding, dangerous and negligent driving, unlicensed	Crossed double yellow lines at high speed on left-hand bend to overtake vehicle - lost control colliding with oncoming vehicle - injured driver and two passengers in other vehicle as well as own passenger.
6.	<b>Scott</b> (26) <a href="#">[1999] NSWCCA 233</a>	s.52A(3)	PG	MT 2y AT 2y	AD	negligent driving / fail to stop / exceed speed	Intoxicated (alcohol 0.160) - drove at high speed weaving through traffic and tailgating - clipped back of another car which veered onto wrong side of the road colliding with oncoming vehicle - "Not far removed from worst case."
7.	<b>Gleeson</b> (25) <a href="#">[2000] NSWCCA 101</a>	2 x s.52A(3)	PG	MT 18m AT 6m	AD	2 x low PCA	Lost control of car and drove into on-coming vehicle - excessive speed, intoxication and poor condition of tyres - intoxication just under s.52A(4) level – victim suffered serious orthopaedic injuries and head injuries.
8.	<b>Ardron</b> (21) <a href="#">[2000] NSWCCA 412</a>	s.52A(3)  Sched: Unlic driving Self admin marijuana	PG	MT 1y 4m AT 1y 4m	AD	nil	Female - Driving fast and intoxicated lost control around a bend and injured passenger in back seat. Conitration - prior good character - efforts at rehabilitation.
9.	<b>Beckett</b> (18) <a href="#">[2000] NSWCCA 424</a>	s.52A(3)(c)	PG	2y NPP 12m	AD	Licence suspended due to poor driving subsequent to accident	Struck 4y child causing brain damage and quadriplegia - combination of factors constituted dangerous driving over crest in road, momentarily blocking view of road ahead - went beyond momentary or casual lapse of attention. Good character - catastrophic effect of accident on offender

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10.	<b>Vitasovic</b> (27) <a href="#">[2000] NSWCCA 323</a>	s.52A(3)	PG	MT 22.5m AT 7.5m	AA error in characterising offence as "sustained course of dangerous driving" 2y NPP 12m	nil - speeding offences	Collided with car at intersection after applying brakes and skidding for 33 metres - child in other car suffered brain damage as result of collision - speeding (90kph in 60kph zone) Strong subjective case - genuine remorse - psychological problems making him vulnerable in gaol.
11.	<b>Romanic</b> (50) <a href="#">[2000] NSWCCA 524</a>	s.52A(3)	PG	22m NPP 18m PD	Crown AA 12m NPP 9m	nil - six traffic infringements	Intoxicated and collided with car on opposite side of road injuring driver and passenger. Good subjective features;
12.	<b>Kilborn</b> (28) <a href="#">[2001] NSWCCA 116</a>	s.52A(3)(a)	PG	3y NPP 2y	AA 2y 6m NPP 15m	driving record not good but not so bad as to preclude leniency	Intoxicated struck taxi driver standing next to taxi on road - car out of control and struck two other cars injuring drivers - first victim suffered permanent brain damage - abandonment of responsibility- not gross but appreciable. Difficult childhood - high degree of remorse - concern for safety in custody - importance of rehabilitation - fragile psychological state.
13.	<b>Park</b> <a href="#">[2001] NSWCCA 313</a>	2 x s.52A(3)	PG	2y NPP 1y (concurrent)	AD	nil	Alcohol range 0.148-0.170 - collided with another car then tree - two passengers in appellant's car injured.
14.	<b>Kaddour</b> <a href="#">[2002] NSWCCA 112</a>	s.52A(3)	VG	6y NPP 4y 6m	AA 4y NPP 3y 3m	bad traffic record - repeated speeding offences - unlicensed	Driving in Lamborghini - crossed median strip and collided with on-coming traffic - speeding - no alcohol or drugs
15.	<b>Cook</b> (21) <a href="#">[2002] NSWCCA 140</a>	s.52A(3)	PG (17%)	22m NPP 12m	AD	nil	Collided with rear of another vehicle, resulting in severe injuries (brain damage and permanent disability) to other driver - excessive speed - left scene of accident but surrendered to police next day Remorse - good work history - settled family life.
16.	<b>Burke</b> (19) <a href="#">[2002] NSWCCA 456</a>	s.52A(3)	PG (17%)	18m NPP 13m 2w	AD	no criminal or traffic record	Learner driver in car without licensed driver - intoxicated and speeding - Lost control of car - Wet road - Passenger badly injured - Serious culpability Remorse and contrition - Evidence of prior good character

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17.	<b>Shannon</b> (47) <a href="#">[2003] NSWCCA 106</a>	2 x s.52A(3)  Sched: Drive under influ of drug Drive while disqualified	PG	18m NPP 9m (concurrent)	Crown AD	minor traffic record	Female - Veered to incorrect side of road and injured oncoming driver - 9 months later committed identical offence - on both occasions under influence of morphine and diazepam - On second occasion drove while licence suspended Exceptional circumstances - physical and mental problems - Major depressive disorder - Prescribed medication
18.	<b>Collins</b> (29) <a href="#">[2003] NSWCCA 244</a>	s.52A(3)(c)  Sched: Fail to stop Drive disqual	PG (20% on appeal)	4y 6m NPP 3y 4.5m	AA 3y 3m NPP 2y 3m	Appalling	Became involved in altercation with persons at party next door – Drove off in car and collided with water main – Turned around and drove at group – Collided with male breaking leg – “rage” incident Protection
19.	<b>Royal</b> <a href="#">[2003] NSWCCA 275</a>	s.52A(3)(c)	PG (20%)	16m NPP 4m	Crown AD (discretion)	No prior criminal convictions – minor speeding matter	Female - Took high dose of amphetamines prior to driving – Micro sleep – Collided with on-coming vehicle – Total abandonment of responsibility Severe mental and personality problems although limited relationship to offending
20.	<b>Clark</b> <a href="#">[2003] NSWCCA 288</a>	s.52A(3)(c)	PG	2y PD	AA 18m, suspended	Minor traffic	Drove over pedestrian at street corner – Accelerated from stop – Failed to ensure pedestrian away from car – Momentary judgment Carer of adult disabled child and wife – Exceptional community service – Exceptional impact on family
21.	<b>Brandt</b> <a href="#">[2004] NSWCCA 3</a>	s.52A(3)	PG (15%)	3y 6m NPP 2y	AD	No criminal record – unlicensed driver	Ran over pedestrian at crossing – Drove through red light – Raining with poor visibility – did not stop and made false report – permanent and serious injuries Difficult family life – family trauma at time of offence
22.	<b>Campton</b> (31) <a href="#">[2004] NSWCCA 56</a>	s.52A(3)	PG (25%)	2y 6m NPP 1y 6m PD	Crown AD (sentence inadequate but dismissed under exercise of discretion)	Poor driving record – includes criminal record for PCA	Drove through red light and collided with car – Driver injured – Intoxicated – Fled scene and lied about driving – Unlicensed – Car unregistered and uninsured Evidence of rehabilitation – Delay in bringing appeal
23.	<b>Whelan</b> <a href="#">[2004] NSWCCA 379</a>	s.52A(3)	PG	2y, suspended	Crown AD AA 2y NPP 12m Suspended	Poor driving record	Riding motor bike collided with turning traffic – Pillion passenger injured – Unable to avoid collision – Very low culpability – Intoxication Unlicensed, uninsured and unregistered – Remorse – Good character

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24.	<b>Nilsson</b> (29) <a href="#">[2005] NSWCCA 34</a>	2 x s.52A(3)	PG (25%)	5y NPP 3y 9m	AA 4y 9m NPP 3y 9m	Dishonesty and driving offences – breached bail and bond	Failed to negotiate bend on busy road – crossed median strip and collided with oncoming traffic – injured driver and own passenger – under influence of drug – rohypnol and cannabis - unlicensed
25.	<b>Hicks</b> (33) <a href="#">[2005] NSWCCA 90</a>	2 x s.52A(3)(c)  Sched Drive disq PCA	PG	16m NPP 12m	AD	Some prior driving offences	Driving over 100km speed limit, car left road and collided with road signs before rolling onto side – 2 passengers injured and in critical condition – BAC 0.064 – no recollection of event Alcohol and drugs – mental health problems – psychotic delusions – good prospects of rehabilitation
26.	<b>Dutton</b> (28) <a href="#">[2005] NSWCCA 248</a>	s.52A(3)(a)	PG	2y NPP 18m Suspended	Crown AA 2y NPP 15m (PD)	Minor	Female drove intoxicated – sideswiped parked motor vehicle and passenger lost hand
27.	<b>Taylor</b> <a href="#">[2006] NSWCCA 7</a>	s.52A(3)	PG (20%)	2y NPP 12m	AD		Driver of wagon with trailer hit rear of car – car forced into pole causing serious injuries to driver - emotional turmoil, sleep deprivation, one beer, marijuana Deep remorse
28.	<b>Ford</b> (20) <a href="#">[2006] NSWCCA 9</a>	2 x s.52A(3)	PG	3y NPP 2y 3m	AA (only to restructure sentence – same effective sentence imposed)	Extensive record – breached bail and periodic detention – Poor traffic record	Speeding – Overtook vehicles on crest across unbroken lines – collided oncoming vehicle – injured passenger and driver – angry at being overtaken by vehicles
29.	<b>Woodland</b> (22) <a href="#">[2007] NSWCCA 29</a>	s.52A(3)(c)  Drive intox Drive unreg Drive unlic	PG (25%)	18m NPP 9m PD  \$200 fine for each offence	Crown AD (exercise of discretion of court to dismiss appeal)	Nil – breached bail	After drinking at party borrowed car without asking to return to party – lost control and collided with tree – passenger injured De facto partner with child – prospects of rehabilitation
30.	<b>Money</b> (57) <a href="#">[2007] NSWCCA 317</a>	s.52A(3)	PG (15%)	4y 3m NPP 2y 9m	AD	Nil - number of traffic matters.	Whilst under influence of drugs drove erratically on Pacific Highway – missed a number of vehicles over 50km distance – drove on to wrong side of road causing collision - gross abandonment of responsibility – high level moral culpability.

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31.	<b>Rosenthal</b> <a href="#">[2008] NSWCCA 149</a>	s.52A(3)  Drive disqual	VG	3y 6m NPP 2y 6m  FT 3m (concurrent)	AA 3y NPP 1y 9m	On bail - disqualified driver – speeding – traffic - dishonesty.	Under influence of ecstasy - left road colliding with safety barriers – caused injuries to pregnant girlfriend travelling as passenger – unborn child did not survive – offender also seriously injured - used ecstasy to control Tourette's disorder – offence less serious than if drug consumed solely for pleasure. Error in taking into account disqualified driver and on bail on question of “abandonment of responsibility.” Continued support from victim / partner.
32.	<b>Read</b> (20) <a href="#">[2010] NSWCCA 78</a>	2 x s.52A(3)	PG (25%)	2y NPP 12m PD	Crown AA 18m NPP 14m	Nil - poor traffic record.	'Burnouts" in cul de sac outside party – hit two victims sitting by side of road. Intoxicated – student.
33.	<b>AB</b> (44) <a href="#">[2011] NSWCCA 229</a>	3 x s.52A(3)  Take conveyance w/o consent	PG (25%)	<u>Total:</u> 3y 7m NPP 2y 1m	Crown AA <u>Total:</u> 6y 7m NPP 4y 9m	Drive manner dangerous - drive unlicensed - fail to stop	Three victims were passengers in offender's vehicle – drinking – Speeding on main road – Lost control, crossed to other side of road and collided into tree - never held driver's licence - disqualified driver at time of collision - high level of moral culpability -.15y victim rendered C2 tetraplegic – offender's 18y son lost arm and 15y son suffered multiple fractures.
34.	<b>Stanyard</b> (24) <a href="#">[2013] NSWCCA 134</a>	2 x s.52A(3)	VG	5y 6m NPP 3y 6m	AD	Traffic infringements	4WD rolled after becoming airborne while driving over sand dune – two female passengers seriously injured – one passenger a tetraplegic – driving an approved activity – excessive speed – showing off – ignored warnings
35.	<b>Greaves</b> (21) <a href="#">[2014] NSWCCA 194</a>	s 52A(3)  s 166 certificate: 4 offences	PG	19m 17d ICO	Crown AA (only to increase disqualification period)	High range PCA, drive whilst suspended	Intoxicated – drove vehicle at excessive speed whilst carrying number of passengers – collided with oncoming vehicle – passenger thrown from vehicle – paraplegic. Low IQ - personality defects and substance abuse problems - no evidence acted without appreciation of seriousness and wrongness of actions. Mental issues – high moral culpability
36.	<b>Primmer</b> (19) <a href="#">[2015] NSWCCA 155</a>	s.52A(3)(c)	PG (25%)	3y 6m NPP 2y 6m	AA 3y NPP 1y 7m	Driving offences	Drove car at excessive speed in residential area – lost control and collided with power pole – female passenger critically injured including irreversible brain damage – never held licence – some impairment due to drugs – car unregistered and uninsured – moral culpability high Remorse – low intelligence

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37.	<b>Kerr</b> <a href="#">[2016] NSWCCA 218</a>	4 x s.52A(3)  3 x s.53 (injures by furious driving)	PG (25%)	21m NPP 7m  FT 9m  <u>Total:</u> 2y 3m NPP 18m	AD	Affray - agg robbery - drive whilst disq - mid-range PCA	Ran into back of group of seven cyclists - cyclists visible for distance of approximately 300m - did not slow down or take any action to avoid collision - driving at approximately 70km/h - inattentive for at least 17 seconds - Moral culpability above the lowest end.
38.	<b>Silvestri</b> (41) <a href="#">[2016] NSWCCA 245</a>	3 x s.52A(3)	PG (25%)	8y NPP 6y	AA 7y NPP 5y	Minor	Overtook car on bridge and collided with oncoming car – driver and passengers in other car injured – pregnant passenger lost baby and unable to have future children – under influence of methamphetamines Genuine remorse – good prospects of rehabilitation
39.	<b>Mansweto</b> (41) <a href="#">[2018] NSWCCA 232</a>	s.52A(3)  s.52A(3)  Sched: 2 offences	PG (10%)	<u>Indicative:</u> 3y 6m  2y  <u>Aggregate:</u> 4y 6m NPP 2y 9m	AA <u>Indicative:</u> 1y 10m  1y 5m  <u>Aggregate:</u> 2y 4m NPP 1y 4m		Failure to secure steering wheel - a matter of omission and forgetfulness - crashed into a house after brakes failed and steering wheel detached from column – two female occupants of house injured – one victim lost her pregnancy - careless mechanical error by offender who was a mechanic - relatively low degree of moral culpability - oversight far lower in moral culpability than other continuing reckless conduct e.g. speed, overtaking unsafely, changing lanes aggressively overtired, affected by drugs or alcohol Good character – remorse – brain tumour operation making employment difficult
40.	<b>Pullen</b> (23) <a href="#">[2018] NSWCCA 264</a>	s.52A(3)  Fail to stop	PG (25%)	<u>Indicative</u> 13m  3m  <u>Aggregate</u> 15m ICO	Crown AA <u>Indicative</u> 2y 3m  1y 6m  <u>Aggregate</u> 3y ICO (includes 650h CSO)	limited	Under influence of cannabis and alcohol drove friend short distance to get wallet – asked by friend to slow down - lost control during road works section and collided with parked truck – friend jumped to driver's side but leg trapped and injured – risk to road workers – speeding – P-plate driver – tried to run off twice Genuine remorse – difficult childhood turning to drugs and alcohol after death of father – excellent prospects of rehabilitation – already completed 50h community service

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41.	<b>Thornton</b> (23) <a href="#">[2020] NSWCCA 257</a>	s.52A(3)  s.52A(3)	PG (25%)	<u>Indicative</u> 2y 1m  2y 7m  <u>Aggregate:</u> 3y 8m NPP 2y	AD	Driving record	Collided with parked police car setting up for RBT in left hand lane – two police officers standing at boot injured – one officer had leg amputated – inattention due to texting – irresponsible abdication of responsibility for extended period Prior good character – remorse, guilt and shame – PTSD would make custody more onerous – good prospects of rehabilitation and low likelihood of re-offending On appeal: sentence not manifestly excessive
42.	<b>Ellis</b> (57) <a href="#">[2020] NSWCCA 303</a>	s.52A(3)  s.53 Cause bodily harm through misconduct while in charge of vehicle [2y]	PG (25%)	<u>Indicative</u> 2y 6m  9m  <u>Aggregate</u> 3y NPP 18m	AD	Appalling driving record	Truck driver collided into back of stationary vehicle waiting to turn into driveway – forced car into path of oncoming vehicle – failure to keep proper lookout – some brake defects although accident would still have happened – driving above speed limit – travelling too close to vehicle – two victims injured - lower end of mid-range Genuine remorse – accepted responsibility
43.	<b>Stanton</b> <a href="#">[2021] NSWCCA 123</a>	s.52A(3)  s.52A(3)	PG (20%)	<u>Indicative</u> 2y 4m  3y 7m  <u>Aggregate</u> 4y 6m NPP 3y	AA <u>Indicative</u> 2y 2m  2y 8m  <u>Aggregate</u> 3y 4m NPP 2y 3m	Nil	Affected by methylamphetamine – driving with victim 1 as passenger - veered to opposite side of the road and collided head on with victim 2's vehicle – both victims left with serious ongoing injuries. Good work history - reasonable prospects of rehabilitation – special circumstances. CCA: sentence manifestly excessive.

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