

## Assault Occasioning Actual Bodily Harm

s.59 (NSW) Crimes Act

s 59 (1) Assault occasioning actual bodily harm

**Maximum Penalty:** 5 years

(2) Assault occasioning actual bodily harm in company

**Added:** 14.12.2001

**Maximum Penalty:** 7 years

Name (age if known)	Offences	Plea	Sentence	Appeal	Record	Facts
<b>Baugh</b> (18) <a href="#">[1999] NSWCCA 131</a>	s.59	VG	3y GBB (1y 2d PSC)	Crown AA 2 years PD	significant	Acquitted of manslaughter - followed and punched victim after victim refused to give cigarette – skull and brain damage after falling on concrete ground – kicked by co-offender – victim subsequently died
<b>Bloomfield</b> (34) <a href="#">[1999] NSWCCA 196</a>	s.59	PG	18m PD	AD	Driving, resist arrest	During argument with daughter punched her 5-6 times in face, pushed her to ground and kicked in stomach – victim fell on protruding screw causing bleeding to head – intoxicated
<b>Philp</b> (1999) 108 A Crim R 336 <a href="#">NSWCCA</a>	s.59	VG	5y GBB	AA 2y 6m GBB	Assault - no previous custody.	Slapped female at party causing bruised lip.
<b>Lockyer</b> (28) <a href="#">[2000] NSWCCA 336</a>	s.59  Sched: 3 offences	PG	MT 2y AT 8m	AA 20m NPP 15m	Lengthy - drugs, property, violence - previous custody.	With co-offender went to victim's house to collect debt from victim's girlfriend – attacked victim with piece of wood and kicked to head and body while on floor
<b>Peres</b> <a href="#">[2000] NSWCCA 353</a>	s.59	PG	MT 2y AT 8m	AA 15m NPP 5m	Larceny and possess prohibited drug	Savage assault on male acquaintance outside hotel – punched and kicked victim on ground - spontaneous response to perceived homosexual advance Provided most evidence for offence – on bail for 2y without re-offending – relative youth

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<b>Moran</b> (24) <a href="#">[2000] NSWCCA 379</a>	s.59	VG	9m Periodic Detention	AD	Violence - previous custody – breached bail and AVO.	Punched spouse in eye and pushed against wall – caused bruising to cheek, eye and back Sentence imposed cumulative to existing sentence
<b>Howard</b> (19) <a href="#">[2000] NSWCCA 378</a>	s.59	PG	FT 12m	AD	BES, fraud	With group of co-offenders approached victim and friend calling them “faggots” – victim punched and fell to ground – suffered bleeding requiring stitches and broken ankle. Aboriginal – deprived background.
<b>Burke</b> (34) <a href="#">[2001] NSWCCA 47</a>	s.59	PG	FT 12m	AD	Drugs, AR, BES	Approached female (39 weeks pregnant) grabbing handbag – victim fell to ground suffering abrasions to shoulder and arm. Drugs – rehabilitation.
<b>Najjarin</b> <a href="#">[2001] NSWCCA 46</a>	3 x s.59	VG	12m PD  2y GBB (concurrent)	Conviction AD		Assaulted ex-girlfriend on three occasions – punched victim twice and struck with baseball bat on third occasion – serious bruising.
<b>Stebbings</b> (28) <a href="#">[2001] NSWCCA 262</a>	s.59	PG	4y NPP 2y	AA 2y 6m NPP 15m	Violence, property - previous custody.	Punched de facto wife in face during argument as she was driving car – caused bruised eye and cheek.
<b>A Mallott</b> (27)	s.59	PG	18m NPP 9m	AA 17m suspended	Driving, drugs, fraud	Female offenders - assaulted female during domestictype argument – swelling and bruising to face and neck.
<b>T Mallott</b> (28) <a href="#">[2001] NSWCCA 453</a>	s.59	PG	18m NPP 9m	17m suspended		
<b>Elijah-Jack</b> (22) <a href="#">[2002] NSWCCA 177</a>	s.59	PG (25%)	18m NPP 6m	AA 12m NPP 3m	Nil	Punched and hit de facto following argument Uncharacteristic – under influence alcohol.
<b>El-Farra</b> (23) <a href="#">[2003] NSWCCA 140</a>	s.59  Take and drive conveyance	PG	2y 6m NPP 20m  FT 9m (concurrent)	Crown AA 2y NPP 15m  FT 9m  <u>Total:</u> 2y 9m NPP 2y	local court offences including BES	Entered victim's car parked in street when victim unlocked it – brandished screwdriver and ordered victim to drive – lunged at victim striking him in throat – victim jumped out and offender drove off in car

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<b>Eustice</b> <a href="#">[2004] NSWCCA 14</a>	s.59(2)  Assault	PG	100h CSO	Crown AA 150h CSO  100h CSO	breached bond for assault	One of group of seven males who approached three young persons aged 16y and 14y on street in early hours of morning – group assault on 16y male including punching and kicking on ground – offender chased second 16y male and threw him to ground causing him to strike head Youth
<b>Achurch</b> <a href="#">[2004] NSWCCA 180</a>	s.59(1)	PG (20%)	2y NPP 18m	AA 12m NPP 9m 13d (immediate release)	Lengthy record but no full time custody	Entered caravan of neighbour in early hours of morning – head butted male and poured beer on male and female – serious offence
<b>Crowley</b> (19) <a href="#">[2004] NSWCCA 256</a>	s.59(2)  s.59(2)  Enter building with intent	PG (25%)	FT 6m  12m NPP 9m  Bond	Crown AD (exercise of discretion)	record includes offences for violence	Two males punched and assaulted male victim in car park of surf club – victim had knocked both to ground when offender joined fight – victim pursued and assaulted by group including offender – offender punched victim but did not cause injuries – second male pursued by group after calling 000 – offender kicked victim on ground and grabbed around throat – on separate occasions attempted to steal TV from restaurant with co-offender Appalling childhood – assaulted and neglected – anger management issues – crossroads case
<b>Williams</b> (44) (2005) 152 A Crim R 405 <a href="#">NSWCCA</a>	s.59	PG	18m NPP 6m	AA 15m NPP 6m	Lengthy, including prison	(2000) Alcoholic Aboriginal woman stabbed friend during drinking session – no recollection of event – no intention to harm – breached parole by driving unlicensed and MRPCA – attended D&A camp – didn't get on with parole officer Poor health, including heart disease and kidney malfunction On appeal removed parole condition not to consume alcohol
<b>El Masri</b> (21) <a href="#">[2005] NSWCCA 167</a>	s.59(1)	PG	300h CSO	AA 100h CSO	No violence	Struck male stranger in head at public toilet – angered by perceived sexual advance On appeal - failure to consider matter could have been dealt with in Local Court
<b>Cotter</b> (37) <a href="#">[2005] NSWCCA 187</a>	s.59(1)	VG	3y GBB	AD	Nil	Slapped de facto wife on face – acquitted of more serious sexual offences Delay On appeal - no error in judge ensuring treatment for psychological and emotional problems continue

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<b>Romano</b> (22) <a href="#">[2005] NSWCCA 313</a>	s.59(1)  Intimidation	PG	2y NPP 18m  FT 12m  <u>Total:</u> 3y NPP 2y 6m	AD	Significant record – breached parole	Arranged meeting with ex-partner to see 17m daughter – made threats to partner at park and on way to partner's house – assaulted partner's new boyfriend with club lock in company with two brothers Significantly disadvantaged childhood – protective custody
<b>Abboud</b> (39) <a href="#">[2005] NSWCCA 251</a>	s.59(2)  Assault  4 x Assault	PG (15%)	12m NPP 6m  FT 3m  FT 6m (all concurrent)	Crown AA 2y 6m NPP 13m  FT 5m  FT 10m  <u>Total:</u> 2y 8m NPP 15m	lengthy record including violence – breached parole for domestic violence offence	Assaulted female partner fracturing rib – victim had expressed wish to sleep – week later struck victim in head with remote control to keep her awake – sustained assault on victim during argument four days later – punched victim to face – grabbed around throat – pushed victim – stomped on victim's legs in presence of children – bit victim on face – made threats
<b>Kang</b> (21)     <b>Yun</b>  <a href="#">[2006] NSWCCA 187</a>	s.59(2)  Damage property    s.59(2)	PG (25%)    PG (25%)	FT 9m  FT 3m  <u>Total:</u> 12m  FT 12m	AD    AA to backdate sentence only	     nil	19y female victim taken to national park by K for meeting with Y – victim had previously rejected request for meeting – victim dragged from car and assaulted by both offenders – berated for lifestyle on behalf of parents – pastor and young worker at Korean church attended by victim's parents – several days later K entered bedroom of victim and damaged CD player
<b>Yassein</b> (24) <a href="#">[2006] NSWCCA 15</a>	s.59(2)  Resist police   Enter enclosed lands  Sched: supply cannabis	PG	2y NPP 12m  FT 3m (concurrent)  Fine	AD	breached bail for resist and assault offences and three bonds – lengthy record	After brief sexual episode offender continued to visit female victim for four months seeking her to leave her husband – on night of offence forced way into victim's house – punched her to face several times and grabbed around throat Suffering schizophrenia

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<b>Shillingsworth</b> (34) <a href="#">[2010] NSWCCA 19</a>	s.59(1)  Breach DVO	PG (25%)	3y NPP 2y 3m  1y (concurrent)	AD	Extensive record – breached bail for assaults on same victim	Struck de facto wife while walking home intoxicated – punched and kicked on ground dislodging front teeth – reacted to provocative comment Aboriginal with low intelligence and disadvantaged background – substance abuse
<b>Markou</b> <a href="#">[2012] NSWCCA 64</a>	s.59(1) (on appeal)	VG	9m ISO	AA 75h CSO (served 4m ISO)	Record including violence	Punched victim in nightclub Convicted of AOABH in company at trial for recklessly inflict GBH in company – offence reduced to AOABH on appeal Unidentified bodily harm – isolated offence - good character
<b>McLaughlin</b> (51) <a href="#">[2013] NSWCCA 152</a>	s.59(1)  s.59(1)  Assault	PG (10%)	FT 15m  2y NPP 12m  FT 1y  <u>Total:</u> 2y 4m NPP 1y 4m	AD	Offensive conduct, assault, ABH - on bond.	After argument with de facto partner dragged her from bed causing her to fall and hit jaw on bed causing bleeding to lip and bruising – 5 months later hit victim to side of head near eye causing injury - one month later during argument grabbed victim by hair and throat - breached bond and AVO imposed only few months earlier in regard to same victim
<b>Pattalis</b> (26) <a href="#">[2013] NSWCCA 171</a>	s.59(1)	PG (20%)	2y NPP 1y	AD	Assault	Single punch to stranger outside nightclub – no explanation as to why incident occurred – offender was drunk and could not recall incident Out of character - employed – remorse - rehabilitation
<b>McKay</b> <a href="#">[2014] NSWCCA 187</a>	s.59(1)	VG (at trial for s.35)	4y NPP 3y	AD	Assault	Inmates working in laundry - victim confronted offender about spraying cigarette butts with fly spray and putting dirty underwear in locker of third inmate – offender hit victim on back of head and punched him in eye as he turned around - offender holding sharp object which perforated eye - eye removed.
<b>Simmons (No.8)</b> <a href="#">[2015] NSWSC 627</a> Hamill J	s.59(1)	PG (10%)	2y 9m NPP 2y	Lengthy record – including violence	Assault	Punched and kicked male in domestic fight – motivated by protection of girlfriend and children – victim vulnerable due to ill health – criminality high – initially lied to police blaming girlfriend - serious example of offence. Poor prospects of rehabilitation.
<b>Jeremiah</b> (21) <a href="#">[2016] NSWCCA 241</a>	s.59(2)	PG (10%)	1y 6m NPP 1y 1m	Crown AA 1y 8m NPP 1y 3m	lengthy – includes violence	Assaulted fellow prison inmate in company of four other prisoners – after victim assaulted by others, offender approached victim from behind, pulled him to ground and stomped on head - vicious, unprovoked and cowardly attack.

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<b>Abdelmeseeh</b> (21) <a href="#">[2016] NSWCCA 312</a>	s.59(2)	PG (10%)	3y NPP 18m	AD	breached parole – record for robbery and violence offences	With brother stared at male victim during train journey then followed him off train and across to bus stop – punched victim in face as he was trying to walk away from offenders – brother punched victim to face causing him to fall – both offenders punched and kicked victim on ground
<b>Rudolf</b> (24) <a href="#">[2016] NSWCCA 313</a>	s.59(1)	PG (25%)	2y NPP 18m	AD	Common assault, larceny, damage property, driving offences.	Punched 53y male to face at hotel – knew victim as previous football coach – held grudge against victim - opportunistic and only minimally premeditated – offender calmly and deliberately carried out crime – unprovoked – offender of large build, much heavier and younger than victim
<b>Samandi</b> (31-32) <a href="#">[2020] NSWCCA 217</a>	s.59(1)  2 x s.59(1)  s.59(1)  s.59(1)  s.59(1)  3 x Assault – s.61I  Intent damage prop - s.195(1)(a)  Make false acc – s.314  s.166 – breach ADVO	PG (10%)	<u>Indicative:</u> 11m  1y 4m  1y 9m  2y  2y 8m  5m / 6m / 11m  1y 1m  2y  5m  <u>Aggregate:</u> 6y NPP 3y 9m	AD	Minor violence, drugs and dishonesty offences	Domestic violence – sustained assaults on female partner over 15 months – assaults commenced day after victim arrived from Iran – irrational response to minor issues – victim slapped, punched, kicked, pushed – hit with hand bag – head pushed into steering wheel – scratched with car key – finger jammed in door – medical assistance refused – forced to lie to police and medical staff Offender injured himself and made false accusation against police

Last updated: Aug 2020

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