

## Armed Robbery

Single

s.97(1) (NSW) Crimes Act

s 97(1) Being armed with an offensive weapon, or instrument, or being in company with another person, robs, or assaults with intent to rob, any person, or stops any mail, or vehicle, railway train, or person conveying a mail, with intent to rob, or search the same,

Maximum Penalty: 20 years

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
1.	<b>Henry</b> (23) <a href="#">[1999] NSWCCA 107</a>	s.97(1) AR  Rob in company  Sched: Administer heroin	PG	MT 1y 6m AT 4y  MT 1y 6m AT 4y (concurrent)	Crown AA MT 3y 6m AT 2y  MT 3y 6m AT 2y (concurrent)	Knife	MV theft, drugs, mal damage, dishonesty – no previous custody – second offence breached bail for first offence.	Robbed service station attendant of \$810 - cut telephone wires when leaving - robbed general store assistant of money from till with co-offender - pointed knife at victim's ribs. Heroin addict - unsuccessful rehabilitation attempts - remorse.
2.	<b>Jenkins</b> (1999) 106 A Crim R 149 <a href="#">[1999] NSWCCA 110</a>	s.97(1) Assault with intent to AR	PG	MT 3y AT 1y	AA FT 2y	Knife	old priors not relevant	Demanded \$20 from shop assistant, leaving store when alarm activated. Prior good character – regret - immediate admission of guilt.
3.	<b>Tran</b> (18) (1999) 106 A Crim R 149 <a href="#">[1999] NSWCCA 109</a>	s.97(1) AR  Sched: Supply drug, GIC	PG	3y 6m GBB	Crown AA MT 2y AT 1y 6m (35% - assistance)	Replica pistol	possess shortened firearm, possess proh weapon, possess drugs – on recog and probation	With 2 co-offenders entered video shop wearing balaclavas - pointed replica pistol at victim and demanded money - \$600 plus money and credit card taken. Late plea guilty – some attempt at rehabilitation
4.	<b>Stahl</b> <a href="#">[1999] NSWCCA 160</a>	s.97(1) AR  Sched: Public mischief	PG	MT 3y AT 2y	AD	Knife	BES, possess prohibited plant	Robbed taxi driver of keys, wallet and money - held knife to victim's throat. Bipolar disorder - heroin addict – remorse - co-operation with authorities.

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
5.	<b>Collier</b> <a href="#">[1999] NSWCCA 137</a>	s.97(1) AR  Sched: Larceny	PG	MT 1y 10m AT 2y 2m	AD	Syringe filled with red liquid	Drug and drug related offences	Robbed chemist of drugs wearing hood over face. Drug addict
6.	<b>Hockey</b> (43) <a href="#">[1999] NSWCCA 149</a>	s.97(1) Assault with intent to AR	PG	MT 3y AT 2y	AD	pocket knife	minor record – breached bond	Attempted to rob pharmacy attended by 70y female – threatened to cut her with knife and forced open till – left when victim’s husband approached
7.	<b>Baker</b> <a href="#">[1999] NSWCCA 150</a>	s.97(1) AR  Sched: 5 offences	PG	MT 2y 4m AT 9m	AD	Knife	Lengthy	Entered home of 89y victim with impaired vision and hearing, living alone - took \$30 and bank withdrawal form filled in by victim Female drug addict.
8.	<b>Ah-See</b> (32) <a href="#">[1999] NSWCCA 175</a>	s.97(1) AR	VG	MT 4y AT 3y	AD	Knife	dishonesty, supply heroin, receiving – previous custody – breach of recog at time of offence.	With shirt pulled over head robbed bowling club of money from till - unpremeditated, amateurish effort. Aboriginal affected by alcohol and methadone withdrawal - rehabilitation prospects.
9.	<b>Mangan</b> <a href="#">[1999] NSWCCA 194</a>	s.97(1) AR	VG	MT 7y 10m AT 2y 7m	AA MT 6y AT 2y	Gun	Armed rob in company (Qld), dishonesty, drugs, possess firearms – previous custody.	With co-offender robbed garden centre safe of \$9000 - both wore dust masks - pointed gun at store manager. Married with children.
10.	<b>Simon</b> <a href="#">[1999] NSWCCA 224</a>	s.97(1) AR	PG	MT 3y AT 2y 6m	AA MT 2y 3m AT 3y	Blood filled syringe	Extensive	Entered service station with t-shirt hiding his face - threatened staff taking \$75 - money recovered. Heroin addict - married with young child - offence committed to pay wife’s traffic fines - no permanent home - on Rohypnol – contrition - State ward at 14 - semi-literate - tragic background.
11.	<b>McCarroll</b> <a href="#">[1999] NSWCCA 237</a>	s.97(1) AR  Sched: GIC 4 x BE&S	PG	MT 6y AT 2y	AA MT 5y AT 3y	Revolvers	Lengthy	With co-offender entered supermarket and robbed two Armaguard employees of \$42,500 and two firearms - well planned offence.

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12.	<b>Flood</b>  <b>Flood</b> <a href="#">[1999] NSWCCA 240</a>	s.97(1) AR  2 x SMV s.90A s.97(1) AR 2 x SMV s.90A	PG   PG	MT 3y 6m AT 2y 6m  FT 2y  FT 3y (all concurrent) MT 3y 6m AT 2y 6m  FT 2y  FT 3y (all concurrent)	AD   AD	fishing knife	breached bond   breached parole	Brothers together approached 19y male and forced him into back seat of his car – drove around to several locations and robbed victim of property
13.	<b>Elleissey</b> <a href="#">[1999] NSWCCA 299</a>	s.97(1) AR	PG	MT 18m AT 2y	AD	Knife	multiple theft, assault, BE&S, drugs	Robbed newsagent of \$600. Heroin addict - special circumstances.
14.	<b>Webster</b> <a href="#">[1999] NSWCCA 313</a>	s.97(1) AR	PG	MT 6m AT 3y 6m	Crown AA MT 12m AT 3y	Blood filled syringe	malicious damage, shoplifting – no previous custody.	With co-offender robbed convenience store of \$410 and tobacco in early hours of morning. Drug addiction - family support - married with child.
15.	<b>Young</b> <a href="#">[1999] NSWCCA 275</a>	s.97(1) AR	PG	MT 3y AT 3y	AA MT 2y 6m AT 2y	Knife	assault, drugs, malicious damage, driving – no previous custody.	While watching TV show boasted he could commit a robbery - left house affected by alcohol and amphetamines and robbed service station of \$2415. Dysfunctional and violent family background - drug use – immature - impetuous and amateurish offence - genuine remorse - good rehabilitation.
16.	<b>Stranglemen</b> <a href="#">[1999] NSWCCA 343</a>	s.97(1) AR	PG	MT 2y 6m AT 10m	AA MT 18m AT 13m (35% - assistance)	Knife	nil	With co-offender robbed service station of \$200 and cigarettes - co-offender threatened victim with knife – offender also had knife in pocket. Employed - reliable worker - stable relationship - assistance to police

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17.	<b>Horne</b> <a href="#">[1999] NSWCCA 391</a>	s.97(1) AR	PG	MT 7m 7d AT 18m	Crown AD	Knife	One prior (not specified)	With co-offender wearing balaclavas robbed service station of \$44 and cigarettes - co-offender threatened victim with knife - lesser role than co-offender. Female - drug abuse - resumed career upon release from gaol - family support - ideal prisoner.
18.	<b>Freeman</b> <a href="#">[1999] NSWCCA 394</a>	s.97(1) AR  Sched: BES	PG	MT 4y AT 3y	AD	Knife	bad record	Robbed Service Station with three other men. Aboriginal with deprived childhood - addicted to alcohol and drugs
19.	<b>Mastronardi</b> (27) (2000) 111 A Crim R 306 <a href="#">[2000] NSWCCA 12</a>	s.97(1) AR  Conceal serious offence	PG	3y Recog	Crown AA 3y Periodic Det  1y Periodic Det	knife	nil	Took taxi with two acquaintances believing they would pay fare – during trip acquaintances produced knife and syringe and robbed driver – failed to report offence to police – next day took part in robbery of second taxi driver with same acquaintance – received money for drugs History of drug abuse – seriously assault in custody – difficult background
20.	<b>Thompson</b> <a href="#">[2000] NSWCCA 15</a>	s.97(1) Assault with intent to AR	PG	MT 18m AT 2y 6m	AD	knife	extensive record	Female – approached taxi driver with small folding knife and demanded money – struggled with victim and nearby security guard Difficult background – at time of offence under influence of drugs after distressing personal news – pregnant at time of sentence
21.	<b>Armstrong</b> <a href="#">[2000] NSWCCA 16</a>	s.97(1) AR	PG	MT 3y AT 3y	AD	Syringe	daunting record	Robbed service station, punching proprietor in struggle - not sophisticated offence. Early admissions to police - genuine remorse - drug addiction - assistance to authorities.
22.	<b>Stanley</b> <a href="#">[2000] NSWCCA 432</a>	s.97(1) AR		MT 4y AT 3y	AA MT 3y AT 2y	Knife	prior convictions – offence committed on recog and after 2 days of parole	After release from gaol stayed with friend - went next door armed with knife to obtain drugs - 18y visitor had no knowledge of drugs – gave \$20 when assaulted Aboriginal – itinerant lifestyle – addicted to drugs and alcohol.
23.	<b>Zaia</b> <a href="#">[2000] NSWCCA 52</a>	s.97(1) AR  Sched: BES		MT 3y AT 2y	AA MT 2y AT 2y	Knife	nil	Robbed pie shop with kitchen knife. Female who become addicted to heroin recently through male partner

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24.	<b>Sua</b> (16) <a href="#">[2000] NSWCCA 94</a>	s.97(1) AR	PG	MT 3y AT 2y 6m	AA MT 2y 6m AT 2y 6m	Pistol	prior convictions including violence and robbery	Forced way into private hotel, threatened manager with pistol and tied him to bed. Significantly disturbed childhood culminating in drug abuse - some positive signs of rehabilitation.
25.	<b>Stones</b> (26) <a href="#">[2000] NSWCCA 341</a>	s.97(1) AR  Carried in conveyance	VG	MT 4y 6m AT 2y 6m  FT 1y (concurrent)	AD	knife	breached recognisance	Robbed jewellery shop armed with knife in company of co-offender – left in stolen car – some degree of planning
26.	<b>Coombes</b> <a href="#">[2000] NSWCCA 349</a>	s.97(1) AR	PG	MT 3y 6m AT 2y 6m	AA 3y 6m NPP 2y	knife		Robbed male in park with co-offender – took credit cards - knife held to victim's throat - offender kneed and punched victim. Assistance to authorities.
27.	<b>Majstrovic</b> (34) <a href="#">[2000] NSWCCA 420</a>	s.97(1) AR	PG	MT 4y 6m AT 1y 6m	AA 6y NPP 3y	toy pistol	lengthy	Robbed saleswoman at bottle shop of \$270.
28.	<b>Doorey</b> (25) <a href="#">[2000] NSWCCA 456</a>	s.97(1) Att AR	PG	MT 2y AT 2y	AD	pocket knife	prior criminal record – offence committed while on bond	Borrowed jumper and beanie, walked from local party and attempted to rob service station - unable to open register after attendant fled - offence committed at night Personality disorder – substance abuse – vulnerable in prison
29.	<b>Thornbury</b> (19) <a href="#">[2000] NSWCCA 526</a>	s.97(1) AR	VG	MT 3y 8m AT 1y 6m	AA 5y NPP 2y 9m	12cm knife	long record with diverse offences	Robbed service station staffed alone by middle aged woman at 8pm - held knife against chest of victim Parents strongly influential in fostering offender's attitude to crime - Aboriginal with deprived background.
30.	<b>Yucel</b> <a href="#">[2000] NSWCCA 532</a>	s.97(1) AR	PG	4y NPP 3m 2d	Crown AA 3y NPP 1y 6m Periodic Det  (PSC 3m 2d)	knife		Robbed electronics store of nearly \$3,000 worth of property. Impressive subjective features – good prospects of rehabilitation On appeal sentence not full time custodial because of delay in appeal and impressive rehabilitation.

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31.	<b>Hickson</b> (20) <a href="#">[2001] NSWCCA 113</a>	s.97(1) AR	PG	4y NPP 2y	AA 2y 6m NPP 1y 4m	knife		Robbed service station pursuant to plan formed with three co-offenders – offender exited service station to find other offenders left and forced to flee on foot – arrested over a year later Readily confessed and assisted – prospects of support and rehabilitation
32.	<b>Russon</b> (35) <a href="#">[2001] NSWCCA 166</a>	s.97(1) AR  Assault police	PG	6y NPP 4y  FT 2y (concurrent)	AA 6y NPP 3y  FT 2y (concurrent)	knife	record since 18y – breached parole	Threatened and robbed taxi driver with knife – left without money when alarm activated – threatened arresting police officers with wood Long history of personality disturbance and drug abuse
33.	<b>Bavin</b> <a href="#">[2001] NSWCCA 167</a>	s.97(1) AR  s.90A	VG	3y NPP 2y  FT 12m	Crown AD	gun		Arranged with co-offender to rob friend of his car at gunpoint – co-offender approached offender and victim then forced victim to drive off in car with co-offender – maintained facade of non-involvement with victim and police – car later found burned out – planner and initiator of offence
34.	<b>Goundar</b> (18) (2001) 127 A Crim R 331 <a href="#">[2001] NSWCCA 198</a>	s.97(1) Aid and Abet AR	PG (20%)	18m NPP 7m	Crown AA 2y 6m NPP 12m	machete	nil	Drove co-offenders to and from armed robbery of service station – employee threatened with machete – offender aware of weapon – significant criminality as driver fully aware of offence
35.	<b>Noonan</b> (33) <a href="#">[2001] NSWCCA 237</a>	s.97(1) AR  2 x Att dispose property	PG	2y 6m NPP 1y 3m  FT 1m (concurrent)	AD	scissors	nil relevant	Female – jumped out of car and grabbed bag from female pedestrian – victim surrendered two bags when she saw scissors Drug user seeking money for drugs – prospects of rehabilitation
36.	<b>Elkurdi</b> (25) <a href="#">[2001] NSWCCA 240</a>	s.97(1) AR	PG	5y NPP 3y	AD	knife	extensive record	Robbed shop causing superficial injuries to proprietor.
37.	<b>Hughes</b> (19) <a href="#">[2001] NSWCCA 264</a>	s.97(1) AR  Sched: Passenger in conveyance	PG	4y NPP 3y	AA 4y NPP 2y	knife	not bad record	Robbed jewellery shop with three co-offenders - one offender armed with knife forced staff into rear office. Difficult and unhappy childhood.

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38.	<b>Thompson</b> (23) <a href="#">[2001] NSWCCA 278</a>	s.97(1) AR  2 x BES  Sched: 8 x BES 2 x BE with intent	PG	10y NPP 7y  FT 2y  Total: 12y NPP 9y	AA 8y NPP 5y  FT 2y  Total: 10y NPP 7y	knife	lengthy record including armed robbery – breached parole	Broke into various commercial premises to steal money – robbed bank using knife – jumped counter and threatened female teller holding knife to throat – left knife behind 'for fingerprints' and made admissions to sister – mid-range offence Alcohol problems – risk of institutionalisation – traumatic childhood – need for extended supervision
39.	<b>Elkaddour</b> (24) <a href="#">[2001] NSWCCA 302</a>	s.97(1) AR	PG	6y NPP 3y 6m	AD	knife	robbery, assault	Tied up victim in own home - threat to kill – demanded money and jewellery.
40.	<b>McCormack</b> (32) <a href="#">[2001] NSWCCA 360</a>	s.97(1) Assault with intent to AR	PG (15% on appeal)	8y NPP 6y	AA 6y 8m NPP 5y	knife	lengthy – breached parole	Approached female at ATM, placed her in headlock, threatened her with knife and demanded money – victim pulled to ground - offender ran off when she struggled and screamed Disturbed childhood – some prospects of rehabilitation
41.	<b>Moore</b> <a href="#">[2001] NSWCCA 454</a>	s.97(1) AR  Sched: Possession of drugs and equip	PG	4y 6m NPP 2y 6m	AD	piece of timber	extensive and discouraging	Through window saw ladies in back room of escort agency counting money - spontaneous decision to rob them using timber found in backyard.
42.	<b>Boney</b> (18) <a href="#">[2001] NSWCCA 432</a>	s.97(1) AR  Sched: Take and drive conveyance	PG	3y NPP 18m	AA 2y 6m NPP 1y 3m	screwdriver	lengthy – on parole at time of offence for robbery in company	Robbed commercial premises with younger brother – threatened victim with screwdriver – unplanned offence Aboriginal with deprived background – juvenile brother received non- custodial sentence
43.	<b>Bushell</b> (26) <a href="#">[2001] NSWCCA 462</a>	s.97(1) AR	VG	3y 6m NPP 1y 6m	AA 2y NPP 1y 1m	scissors	lengthy – related to drug addiction	Obtained cigarette from victim on train holding scissors in threatening manner – demanded \$5 - towards bottom of scale of seriousness – spur of moment. Fresh evidence suffering schizophrenia
44.	<b>Akbary</b> <a href="#">[2001] NSWCCA 491</a>	s.97(1) AR  Sched: AR	PG	4y 6m NPP 2y 6m	AD	meat cleaver or meat hammer	extensive	Threatened shop keeper for cigarettes and money – not well planned. Recently released from psychiatric hospital – suffering serious mental illness

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45.	<b>Hunter</b> (45) <a href="#">[2001] NSWCCA 530</a>	s.97(1) AR  Sched: Assault	PG	7y NPP 3y 6m	AD	knife	prior conviction for AR	Approached mother with young children at ATM – placed knife to throat of 9y daughter – took money and left Suffering schizophrenia
46.	<b>Henry</b> <a href="#">[2001] NSWCCA 521</a>	s.97(1) AR	PG (30%)	4y NPP 2y	AD	syringe	shoplifting offences	Held up mixed business using syringe – struggle ensued when shopkeeper's wife struck offender. Remorse – some success in reducing drug dependency
47.	<b>Wilson</b> (21) <a href="#">[2002] NSWCCA 65</a>	s.97(1) AR  s.99  Sched: 2 offences	PG (20%)	3y 4m NPP 1y 8m  FT 1y (concurrent)	Crown AD	syringe	record includes robbery offences – breached parole	With co-offender woke up passenger on train and demanded money using threat of syringe – took mobile phone – later that night demanded money from male Protective custody
48.	<b>Philips</b> (29) <a href="#">[2002] NSWCCA 167</a>	s.97(1) AR	PG	6y NPP 3y	AD	knife	prior convictions with no gaol – breached bond and bail	Robbed taxi driver with de facto – victim suffered slight cut to chin – stole taxi Recent death of child resulted in drug addiction for both offenders – good prospects of rehabilitation – traumatic upbringing and psychological problems
49.	<b>Ryan</b> (24) <a href="#">[2002] NSWCCA 171</a>	s.97(1) AR	PG (15%)	5y NPP 3y 9m	AA 4y NPP 2y 6m	knife	lengthy	Aboriginal woman robbed shop in company with co-offender – co-offender more significant role Drug addiction – possible brain damage – dysfunctional life – mother of young son.
50.	<b>Cross</b> <a href="#">[2002] NSWCCA 172</a>	s.97(1) Att AR  Drive in conveyance  Sched: BES	PG	6y NPP 2y 5m  FT 9m (concurrent)	AA 4y NPP 2y  FT 9m (concurrent)	syringe filled with red fluid	nil serious	Attempted to rob news agency – left without money when female called out for husband – left in stolen vehicle Prior good character – shattered by tragic death of girlfriend - rehabilitation
51.	<b>Walker</b> (32) <a href="#">[2002] NSWCCA 178</a>	s.97(1) AR	PG (25%)	6y NPP 3y 6m	AD	replica gun	lengthy and escalating – on parole and suspended sentence for similar offences	Pointed gun at 17y schoolboy and searched schoolbag for mobile phone.

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52.	<b>Pearson</b> (36) <a href="#">[2002] NSWCCA 256</a>	s.97(1) AR  Sched: minor drug matter	PG (25%)	4y NPP 2y 3m	AD	vegetable knife	little	Robbed newsagency while disguised and screaming abuse Troubled childhood led to early drug abuse – failed to comply with Griffiths remand to assist drug rehabilitation
53.	<b>Hayes</b> (25) <a href="#">[2002] NSWCCA 237</a>	s.97(1) AR	PG (45% plea and assist)	4y NPP 3y	AA 3y 4m NPP 2y 2m	blood filled syringe	not relevant	Robbed service station using balaclava and blood filled syringe – limited planning Long term addiction – genuine contrition
54.	<b>Knight</b> (19) <a href="#">[2002] NSWCCA 12</a>	s.97(1) AR  Sched: possess heroin	PG (25%)	5y 3m NPP 3y	AD	knife	prior for possession of drug – on bond	Broke into girlfriend's parents' house after first cutting off electricity – demanded money from victims in bed – took handbag containing \$5000 - money recovered Bike accident caused psychological and physical effects and resulted in drug addiction – remorse
55.	<b>Parsons</b> (19)  <b>Poore</b> (20)  <a href="#">[2002] NSWCCA 296</a>	s.97(1) AR  s.97(1) AR	PG  PG	2y Periodic Det  2y Periodic Det	Crown AD / AA 2y NPP 18m Periodic Det  Crown AD	miniature sword	priors for PHBI and BES  nil	Flatmates robbed pizza delivery man and took car – met with third person to remove stereo system – equal culpability Exceptional circumstances for both offenders included difficult and violent childhoods, depressive and psychological illness, severe financial problems and evidence of rehabilitation
56.	<b>King</b> <a href="#">[2002] NSWCCA 365</a>	s.97(1) AR	VG	7y NPP 5y 3m	Conviction AD	object disguised as gun		Waited in car for female victim – pushed object into her back telling her it was a gun – forced her into restaurant and stole money
57.	<b>Weldon</b> <a href="#">[2002] NSWCCA 308</a>	s.97(1) AR	PG	6y NPP 4y 6m	AA 6y NPP 3y	knife	armed robbery	With two co-offenders robbed jewellery store armed with knife - took staff into rear office - took \$250,000 worth of jewellery and \$3000 cash - goods and cash recovered. Depressed state - Aboriginal background.
58.	<b>Sullivan</b> <a href="#">[2002] NSWCCA 312</a>	s.97(1) AR	PG (17.5% on appeal)	4y 6m NPP 2y 9m	AA 4y 1m NPP 2y 3m	knife	malicious wounding	Robbed female with knife – grabbed bag and pushed victim to ground Failure to take into account pre-sentence custodial rehabilitation

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59.	<b>Howarth</b> (44) <a href="#">[2002] NSWCCA 387</a>	s.97(1) Assault with intent to AR	PG (20%)	8y NPP 6y	AA 6y 6m NPP 4y 10m	knife	on parole for AR	Telephoned police and advised of robbery – entered post office and attempted robbery – threatened man with knife Co-operated with police – preferred to return to custody
60.	<b>Dodd</b> (2002) 135 A Crim R 32 <a href="#">[2002] NSWCCA 418</a>	s.97(1) AR	VG	7y NPP 4y 6m	AD	knife	on bail and bond – extensive record	Robbed male in own home in company with juvenile co-offender
61.	<b>RMK</b> (15) <a href="#">[2002] NSWCCA 414</a>	s.97(1) AR  Sched: Rob in Company	PG	4y NPP 18m	AA 3y NPP 15m	knife	nil	With co-offender approached Asian couple in park – demanded and received money – produced knives and threatened victims – male cut on hand and cheek – stole more cash Refugee from Sudan with no parents – evidence of rehabilitation – parity
62.	<b>Tuifua</b> (18) <a href="#">[2002] NSWCCA 420</a>	s.97(1) AR  s.94 Steal from person  Sched: 3 offences	PG	5y NPP 3y  FT 2y 6m  <u>Total:</u> 6y 20d NPP 4y 20d	AD	dumbbell and knife	substantial – breached parole and recognisance	One of group of men who approached victim in car – victim punched and kicked by offender and another – car keys and phone taken from victim – one of two men who entered unit and threatened occupants with dumbbell and knife picked up in unit – stole property Disadvantaged childhood – some evidence of rehabilitation prospects
63.	<b>Ebsworth</b> (24) <a href="#">[2002] NSWCCA 465</a>	s.97(1) AR  Sched: Carried in conveyance	PG	5y NPP 3y 9m	AD	baseball bat	record for similar offences – breached parole	Armed with baseball bat and in company of 2 co-offenders robbed liquor store – left in stolen car Disturbed and dysfunctional family background
64.	<b>Azzi</b> <a href="#">[2003] NSWCCA 10</a>	s.97(1) AR  Sched: AR	PG (25%)	2y Suspended	Crown AD	piece of wood		With co-offender robbed service station – similar offence committed four days earlier Intellectual disability – sentence inadequate but crown unable to show suitable arrangements can be made for vulnerability at periodic detention

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65.	<b>Inamata</b> (24) (2003) 137 A Crim R 510 <a href="#">[2003] NSWCCA 19</a>	s.97(1) AR  SMV	VG	8y 6m NPP 5y  FT 1y 6m  Total: 10y NPP 6y 6m	AD	pistol	record for serious offences including robbery offences – escapee at time of offending	Robbed bank with co-offender who was armed with pistol – left with \$57,217 in stolen car Early drug abuse
66.	<b>Bryant</b> (23) <a href="#">[2003] NSWCCA 34</a>	s.97(1) Assault with intent to AR	PG (25%)	5y NPP 3y	AD	knife	similar offences	Entered bakery seeking money for food Profoundly affected by death of father – early drug addiction – reasonable prospects of rehabilitation
67.	<b>Luu</b> (21) <a href="#">[2003] NSWCCA 39</a>	s.97(1) AR  Sched: GIC	VG	8y NPP 5y	AD	knife	no prior imprisonment – on bail for demand money with menaces offences	With 3 co-offenders surrounded 19y victim on street in broad daylight – took wallet and PIN and withdrew \$800 Heroin addiction
68.	<b>Lyndon</b> (38) <a href="#">[2003] NSWCCA 152</a>	s.97(1) Att AR	PG	5y NPP 3y 9m	AA 5y NPP 3y 6m	small pistol	lengthy	Attempted to rob female operator of service station in early hours of morning – left without money as car pulled up Appeal against effect of accumulation to existing sentence
69.	<b>Vincent</b> (22) <a href="#">[2003] NSWCCA 112</a>	s.97(1) AR	PG	3y NPP 1y	Crown AD	Knife	Nil	Entered car of female and threatened her with knife – impulsive offence Genuine contrition – protective custody – family support – need for early treatment for psychotic illness
70.	<b>Russell</b> <a href="#">[2003] NSWCCA 279</a>	s.97(1) AR	PG	7y NPP 4y	AA 6y NPP 3y	Gun	minor	With co-offender robbed convenience store threatening with gun and wearing balaclavas – took cigarettes and alcohol – cut telephone lines before leaving. SJ erroneously sentenced for s. 97(2)

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76.	<b>Kane</b> (28) (2004) 144 A Crim R 496 <a href="#">[2004] NSWCCA 78</a>	s.97(1) AR	VG	8y NPP 6y	AD	Knife and brick	Extensive	Robbed TAB at night armed with knife and brick – threats of violence Heroin abuse
77.	<b>Hemsley</b> (29) <a href="#">[2004] NSWCCA 228</a>	s.97(1) AR	PG (20% on appeal)	6y NPP 4y 6m	AA 3y NPP 2y	Syringe filled with blood	Prior convictions for less serious offences	Female - robbed hairdresser Dysfunctional childhood and personal background – borderline personality disorder and major depression – failure to give appropriate reduction for mental illness
78.	<b>Fry</b> (34) <a href="#">[2004] NSWCCA 238</a>	s.97(1) AR	PG	FT 12m	Crown AD	Toy gun	Breached parole – lengthy record – spent most of adult life in custody	Robbed pharmacy using toy gun Evidence of rehabilitation – assistance to authorities – proposed release to full time residential program – failure to provide appropriate supervision upon release from custody prior to commission of offence – delay in Crown appeal
79.	<b>Makhoul</b> (33) <a href="#">[2004] NSWCCA 275</a>	s.97(1) AR  Receiving	VG  PG	5y NPP 2y 6m  FT 10m  Total: 5y 4m NPP 2y 10m	AD	knife	record	Two offenders wearing balaclavas robbed bottle shop – offender prodded male employee with knife Some evidence of drug rehabilitation
80.	<b>Randell</b> (20)  <b>McAlister</b> (18)  <a href="#">[2004] NSWCCA 337</a>	s.97(1) AR  s.97(1) AR	PG  PG	6y NPP 4y  5y NPP 3y	AA 5y 3m NPP 3y 6m  4y NPP 2y 6m	Knife	Sign record – breached parole  Minor juvenile record - recent rob in comp – subject to bond at time of off	Home invasion at night on home of acquaintance – searching for drugs – young female at home alone – mobile phone stolen and resold by R R: significantly deprived upbringing – studied at TAFE McA: low average intellectual ability – some employment history and favourable character evidence – no previous custodial sentence.
81.	<b>Martin</b> (19) <a href="#">[2004] NSWCCA 416</a>	s.97(1) AR  Sched s.97(1) GIC	PG (15%)	5y 4m NPP 4y	AA 5y 4m NPP 3y 3m	gun	14 priors, mainly in Children's Court; on bail at time of offence	In company, robbed man of wallet and mobile on street – hit victim on nose with gun Dysfunctional family – substance abuse – youth – now studying – special circumstances found

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82.	<b>Youkhana</b> (32) <a href="#">[2004] NSWCCA 412</a>	s.97(1) AR	PG (25%)	6y 4m NPP 4y 3m	AA 5y 3m NPP 3y 3m	Replica pistol	Breached bail for offence of interfering with dead body	Robbed manager of Club with co-offender – three employees bound – video tapes removed - \$81,000 stolen Iraqi born - married with children – reasonable prospects of rehabilitation – failed to take into account effect of accumulation
83.	<b>Jones</b> (31) <a href="#">[2004] NSWCCA 432</a>	s.97(1) AR	PG (25%)	6m (concurrent to other sentences)	Crown AA 3y NPP 2y	Empty syringe and needle	Lengthy record – breached parole	Stole handbag from man waiting in car – struggle – delay in detection Drug addiction
84.	<b>Bichar</b> (32) <a href="#">[2006] NSWCCA 1</a>	s.97(1) AR	PG (10%)	3y NPP 18m	AD	Syringe	Minor	Robbed train passenger using syringe Suffered PTSD from army service and brain injury from accident at work – drug abuse
85.	<b>Ross</b> (18) (2006) 160 A Crim R 526 <a href="#">NSWCCA</a>	s.97(1) AR	VG	5y NPP 2y 6m	AA 4y NPP 2y	Knife	Criminal record	Robbed passenger at trial station – knife not wielded against victim – no pre-planning Unhappy and dysfunctional upbringing – mild developmental disability caused by frontal lobe damage – stole money for food – drug addiction – prospects of rehabilitation
86.	<b>Buonocore</b> (24) <a href="#">[2006] NSWCCA 159</a>	s.97(1) AR Sched: s.97(1) AR	PG	7y NPP 4y 6m	AD	Knife / firearm	Nil	With co-offender robbed female taking pharmacy takings to bank – male employees robbed in similar circumstances on subsequent occasion – driver of getaway vehicle – former employee of pharmacy – careful planning – prime mover
87.	<b>Olive</b> <a href="#">[2006] NSWCCA 329</a>	s.97(1) AR	PG (25% plus Henry discount)	2y 3m NPP 15m	AD	Syringe		Attempted to rob video store with syringe – grabbed female proprietor Good prospects of rehabilitation.
88.	<b>MacDonald</b> (23) <a href="#">[2007] NSWCCA 105</a>	Att s.97(1) AR Sched: Armed with intent	PG (16-17%)	5y NPP 2y	AD	Syringe filled with red liquid	Use offensive weapon to avoid detention	Attempted to rob liquor store – attacked by attendant with baseball bat – repeated attempt 6 days later Drug addiction – mental illness
89.	<b>Liao</b> (25) <a href="#">[2007] NSWCCA 132</a>	s.97(1) AR	PG (25%)	6y NPP 2y 9m	AD	Knife and rolling pin	Nil	Lured landlady into bedroom – threatened with weapons – assaulted – tied up and gagged over prolonged period – planned offence – higher than mid-range seriousness Chinese student

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90.	<b>Ersman</b> (19) (2007) 171 A Crim R 560 <a href="#">[2007] NSWCCA 161</a>	s.97(1) AR	PG	6y NPP 3y	AA 5y NPP 2y 6m	Knife	Prior convictions	Three offenders robbed 44y female in car park of railway station at night Borderline disabled – maladjusted – difficult background – drug and alcohol problems
91.	<b>Wilson-Winship</b> (23) (2007) 172 A Crim R 505 <a href="#">[2007] NSWCCA 163</a>	s.97(1) AR	PG (25%)	3y 9m NPP 2y 3m	Crown AA 6y NPP 3y	Sledgehammer	Long history of drug related offences – breached parole. BES, AOABH.	Armed robbery of bank - smashed bank window with sledgehammer - stole \$60,577.73 Drug addiction - offence committed for purchase of drugs - prospects of rehabilitation
92.	<b>Legge</b> (18) <a href="#">[2007] NSWCCA 244</a>	s.97(1) Assault with intent to AR	PG (35% plea and assist)	2y 7m NPP 1y 4m	AA 2y 7m NPP 10m	Knife	Nil	Approached male victim at ATM in shopping centre – demanded money and told victim he had a knife – victim was plainclothes police officer. Offence committed under duress from other persons who had planned the robbery.
93.	<b>Simpson</b> (29) <a href="#">[2007] NSWCCA 348</a>	s.97(1) AR	VG	6y NPP 4y	AA 4y 6m NPP 3y	Knife	Stealing, Robbery in company	Female - approached female victim – told victim to give her bag - threatened and scuffle ensued – bystanders came by and held offender. Difficult background - drug abuse rehabilitation – reason to give rehabilitation prominence in sentencing.
94.	<b>Sheridan</b> (35) <a href="#">[2008] NSWCCA 14</a>	s.97(1) AR  Schedule: GIC	PG (25%)	8y NPP 6y	AD	Pistol (unverified on sentence)	Extensive - armed robbery, assault with intent to rob – breached parole	Robbed newsagency of \$800 – victim unable to verify actual weapon - planned offence Little prospect of rehabilitation – drug abuse.
95.	<b>Veale</b> (2008)181 A Crim R 149 <a href="#">[2008] NSWCCA 23</a>	s.97(1) AR  SMV		10y NPP 7y 6m  2y NPP 18m (concurrent)	AA 8y NPP 6y  2y NPP 18m (concurrent)	PVC tubing	lengthy record – breached parole	Drove into car park – ran and female grabbed bag and returned to car – victim carrying \$20,000 cash service station takings – driving in car stolen previous evening – considerable planning – victim vulnerable Disturbed background

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96.	<b>Ryan</b> (18) <a href="#">[2008] NSWCCA 198</a>	s.97(1) AR	PG	3y NPP 15m	AD	Knife	Nil	Robbed service station attendant armed with knife – stole money and cigarettes – robbery filmed on CCTV and screened on television – no response from public but applicant attended police station with parents and made full admissions. Strong subjective case – voluntary disclosure - affected by death of cousin – alcohol abuse – depression.
97.	<b>Wilson</b> <a href="#">[2008] NSWCCA 245</a>	s.97(1) AR  Take and drive conveyance  Sched: Carried in conveyance	PG (25%)	6y 6m NPP 4y 9m  2y NPP 1y 6m  <u>Total:</u> 6y 9m NPP 5y	AA 6y 6m NPP 4y 6m  2y NPP 1y 6m  <u>Total:</u> 6y 9m NPP 4y 9m	shortened non-functioning shotgun	breached conditional liberty – extensive record	With co-offender robbed bank armed with shotgun while co-offender armed with black pistol – held open door while co-offender took cash – stolen car offense unrelated to robbery – laundered money through poker machines – shotgun in working condition but unloaded Long term drug user
98.	<b>Ahmed</b> (35) <a href="#">[2008] NSWCCA 305</a>	s.97(1) AR  Sched: 5 offences	PG	7y NPP 3y 6m	AD	Knife	Significant record including armed robberies - breached parole.	Robbed pedestrian - produced knife, asked for cash and threatened to stab male victim – victim handed over backpack containing cash and credit cards.
99.	<b>Brown</b> (2009) 193 A Crim R 574 <a href="#">[2009] NSWCCA 6</a>	s.97(1) AR  Sched: Robbery	PG	s.11 CSPA (Griffiths Remand)	Crown AD	Knife		Robbed victim of mobile phone on city street – threatened victim with knife. Out of character – personal circumstances led to clouded judgement
100.	<b>Waugh</b> (32) <a href="#">[2010] NSWCCA 3</a>	s.97(1) AR  Sched: Att SMV	PG	5y NPP 3y	AD	Knife	Breached bond – lengthy record	Robbed service station armed with knife – told employee he would not hurt her – took \$102. Troubled background with physical and sexual abuse – extensive history of substance abuse – suffering mental condition at time of offence

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101.	<b>Field</b> (28) <a href="#">[2011] NSWCCA 13</a>	s.97(1) AR	PG (25%)	3y 9m NPP 2y	Crown AD	Firearm	BES, assault, possess implements	With co-offender attended home of victim from whom had previously purchased drugs – pointed firearm at victim demanding money and drugs – took mobile phone and cigarettes Abusive childhood – mild intellectual disability and mental illness – alcohol and drug abuse – no formal qualifications – special circumstances to allow for rehabilitation – first period of lengthy imprisonment
102.	<b>Sukkar</b> (29) <a href="#">[2011] NSWCCA 140</a>	s.97(1) AR	VG	2y NPP 10	Crown AA 3y NPP 10m	Knife (used by co-offender)	nil	Drove co-offender to scene of robbery – waited in car while co-offender entered premises then drove co-offender away – co-offender threatened shopkeeper with knife and took money. Good character. Manifest inadequacy but completed NPP so dated sentence so offender not returned to custody.
103.	<b>Turner</b> (37) <a href="#">[2011] NSWCCA 189</a>	s.97(1) AR  Sched: Stealing	PG (25%)	4y 6m NPP 2y 9m	AA 3y 6m NPP 1y 9m	Syringe		Threatened nurse and doctor with needle at hospital – stole quantity of hospital drugs. Suffering very serious injury requiring drugs – suicidal SJ failed to take into account mental state.
104.	<b>Crowe</b> (18) <a href="#">[2011] NSWCCA 251</a>	s.97(1) AR	PG	12m Bond (s 9 CSPA)	Crown AD	Replica pistol	Nil	Robbed male walking down street at 1am – took \$5 – friends in car – intoxicated – impulsive and unpremeditated offence First offence - evidence of rehabilitation
105.	<b>Arbili</b> (31) <a href="#">[2012] NSWCCA 48</a>	s.97(1) Att AR	PG (20%)	5y NPP 2y 6m	AD	Knife	Record including gaol – breached bail	Threatened tobacconist with knife – victim cut on arm – left when customer entered shop Mental illness
106.	<b>Yuksel</b> (19)  <b>Sirtlan</b> (19)  <a href="#">[2012] NSWCCA 84</a>	s.97(1) AR  Sched: s97(1)  s.97(1) AR  Sched: s.97(1)	PG (25%)  PG (25%)	1y 51 weeks Suspended  3y NPP 18m	Crown AD  Crown AD	  Knife	Reckless wound in company  Assault, armed robbery, AOABH. On bond.	Robbed 2 young male victims late at night – threatened with knife by S – Crown could not prove that Y aware of knife – took mobile phones, bankcards small amounts of money from each victim. Y - depressive condition- genuinely remorseful- high prospects of rehabilitation- full-time employment S - severe depressive condition –good prospects for rehabilitation

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107.	Lang (19) <a href="#">[2013] NSWCCA 29</a>	s.97(1) AR  2 x s.112(2)  Sched: 2 offences	PG (25%)	7y NPP 3y  FT 2y  <u>Total:</u> 9y NPP 5y	AD	machete	Similar offences	Four offenders robbed service station – co-offender carried fake pistol and offender carried machete – broke into stores by smashing windows and stole goods. First time adult prison
108.	T (35) <a href="#">[2015] NSWCCA 28</a>	s.97(1) Assault with intent to AR  Steal MV  s.93G - discharge firearm  Possess pistol	PG (30% - plea and assist)	<u>Indicative</u> 7y NPP 4y  1y 9m NPP 14m  3y NPP 2y  4y NPP 2y 8m  <u>Aggregate:</u> 11y NPP 7y	AD	Knife	Extensive – breached parole for AR	With three co-offenders attempted to rob bank – left when unable to get past security screens – forced people from car and stole car to escape – 20 days later fired shots into air while being pursued by two cars of men firing shots – found in possession of revolver and pistol upon arrest Extensive assistance
109.	Allen (20) <a href="#">[2015] NSWCCA 113</a>	s.99  s.97(1) Att AR	PG (25%)	FT 9m  3y 9m NPP 2y 8m  <u>Total:</u> 4y NPP 2y 11m	AD	Knife	Extensive – including violence	Demanded money from café at 6am – no money in till – shortly after demanded money from news agency armed with knife – left when threatened by employee – vulnerable victims Early drug addiction
110.	Gardener (35) <a href="#">[2015] NSWCCA 170</a>	s.97(1) AR  Carried in conveyance	PG (12.5%)	7y NPP 3y 6m  1y 6m (concurrent)	AD	Axe and claw hammer	Released to parole 12 days prior to offence – appalling record	Robbed jewellery store in company of male armed with axe and claw hammer – stole \$10,000 worth of goods Aboriginal raised in environment of extreme domestic violence – subjected to sexual and physical abuse at hands of father and institution - early drug and alcohol abuse – low intellectual ability – institutionalised – mental health issues

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111.	<b>Rose</b> (23) <a href="#">[2015] NSWCCA 318</a>	s.97(1) AR	PG (25%)	3y 3m NPP 21m	Crown AA 5y NPP 3y	Knife – small crow bar	Breached conditional liberty	Threatened elderly couple on property with knife – demanded guns – threatened to kill or cut throat - alternatively aggressive and calm – after some time was given keys and took guns while victims escaped to neighbouring property Under influence of ice at time of offence – working with two co-accused
112.	<b>Martin</b> (33) <a href="#">[2016] NSWCCA 104</a>	s.97(1) Assault with intent to AR  s.112(2)  Sched: Resist arrest	PG (25%)	4y 6m NPP 2y 9m  3y NPP 1y 10m  <u>Total:</u> 5y NPP 3y 3m	AA 4y 6m NPP 2y 3m  3y NPP 1y 10m  <u>Total:</u> 5y NPP 2y 9m	syringe	breached bail	Entered service station and threatened console operator with syringe pointed at neck – victim fled – same night entered house where two persons asleep and took property Lengthy history of substance abuse – abusive childhood – mental health issues
113.	<b>Faleafga</b> (19) <a href="#">[2016] NSWCCA 178</a>	s.97(1) AR	PG (25%)	4y NPP 2y 3m	AA 3y 2m NPP 1y 8m	Hammer; cigarette lighter and aerosol can	Driving matters only – breached bond.	Robbed petrol station of \$400 – smashed through glass pane with hammer - threatened station attendant with cigarette lighter and aerosol can which offender ignited – victim afraid he would be burnt. Difficult upbringing - genuine remorse -initiative taken by offender to rehabilitate – attempt to commence tertiary studies – Aboriginal – social disadvantage
114.	<b>White</b> (36) <a href="#">[2016] NSWCCA 190</a>	s.97(1) AR  Sched: AR	PG (25%)	6y 6m NPP 4y	AA 5y 6m NPP 3y 6m	Item that looked like a pistol.	Lengthy. Dishonesty, drugs, Armed Robbery. On parole.	Both offences committed within a few hours in 2013 – robbed restaurant pointing item that looked like a pistol at store employee – took \$13,000 from cash register Difficult childhood - delay in sentencing.
115.	<b>Walker</b> (30) <a href="#">[2016] NSWCCA 224</a>	s.97(1) Att AR  Possess prohibited weapon  Sched: BES	PG (25%)	2y 9m NPP 10m  12m bond	AA 16m ICO  PSC 236 days	Hunting knife	Minor drug and traffic – 2 subsequent drug offences	Broke into office of service station at night and threatened employee with hunting knife – demanded money – stole phones – search of house found hand held Taser History of drug use – on bail for appeal – if not assessed as suitable for ICO appeal to be dismissed

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116.	<b>Buxton</b> (25) <a href="#">[2017] NSWCCA 169</a>	s.97(1) AR  Sched: AR	PG (15%)	8y NPP 5y	AA 6y 5m NPP 4y	knife	Armed robbery, Agg robbery with wounding. On parole.	Approached two females with knife – asked victims for handbags. Aboriginal background – drug abuse
117.	<b>Kelly</b> (31) <a href="#">[2017] NSWCCA 256</a>	s.97(1) Att AR	PG (15%)	5y 11m NPP 3y 6m	AD	Knife	Breached conditional liberty – lengthy record	With co-offenders attempted to rob butchers shop – stood at door while co-offender threatened employee with knife – customers in shop – offenders left when owner produced larger knife – degree of planning Only issue on appeal was parity
118.	<b>Gardiner</b> (20) <a href="#">[2018] NSWCCA 27</a>	s.97(1) AR	PG (25% on appeal)	3y 1y 6m	AA 2y 4m NPP 1y 2m	Golf club	Nil	With 2 co-offenders attended service station and demanded money from attendant and companion – co-offender armed with knife and offender held up gold club – both wore head coverings – obtained cash \$300. Admitted offence immediately - supportive family network - favourable prospects of rehabilitation – drug abuse.
119.	<b>Perticarini</b> (24) <a href="#">[2019] NSWCCA 192</a>	s.97(1) AR	PG (25%)	4y NPP 2y 3m	AD	Knife	Nil	Robbed taxi driver – threatened with knife, held towards back of victim's head and neck – took \$175 and keys – offence committed after losing money gambling on poker machines – knife was in fishing tackle box in his car. Mild intellectual disability
120.	<b>Chandler</b> <a href="#">[2019] NSWCCA 250</a>	s.97(1) AR  Sched: 3 offences  s.166 certificate: 2 offences	PG (25%)	4y NPP 1y 8m	Crown AA 4y 6m NPP 2y 8m	Hammer	robbery offences, aggravated assault with intent to rob - on parole.	Armed with hammer, and face covered by balaclava, ran at victim with hammer raised above head and demanded victim's wallet and phone. Deprived background – special circumstances.

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121.	<b>Tuncbilek</b> <a href="#">[2020] NSWCCA 30</a>	s.97(1) Att AR	PG (25%)	3y 9m NPP 2y 6m	AA 3y NPP 2y 3m	Butter knife	record including attempted armed robbery	Threatened attendant opening Service Station early in morning with butter knife – left when attendant failed to open till but asked for police to be called – returned to kick locked door and demand police be called – appeared to commit offence to be arrested – unsophisticated offence with little planning – vulnerable victim placed in fear History of drug use and mental health issues – schizophrenia On appeal – failure to properly assess objective gravity – failure to properly take into account mental health issues – found offence towards lower end of range
122.	<b>Edwards</b> (21) <a href="#">[2020] NSWCCA 141</a>	s.97(1) Att AR	VG	4y NPP 2y 6m	AD	Small knife	Breached bond – records included drug possession, GIC, throw missile at police	Approached female student walking home with knife grabbed around neck, held knife to throat and demanded money – left when victim indicated no money or other property – planned to commit an offence for financial gain - low medium range Difficult childhood exposed to alcohol abuse and physical and emotional violence – foster care at 7y – some psychological issues – reasonable prospects of rehabilitation On appeal: sentence not unreasonable or unjust
123.	<b>Qoro</b> <a href="#">[2020] NSWCCA 276</a>	s.97(1) AR	PG (25%)	3y 9m NPP 2y 6m	AA 3y 6m NPP 2y 1m	Knife.	Extensive.	Robbed taxi driver – threatened driver with knife. CCA: Failure to give effect to special circumstances - significant psychiatric conditions in part, causative of the offending - offending caused during time when applicant had ceased medication - genuine remorse and developing insight into criminal behaviour - rehabilitation.

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124.	Nasrallah (20) <a href="#">[2021] NSWCCA 207</a>	s.97(1) AR  Malicious damage to property	PG (25%)	2y 9m NPP 1y 4m  FT 3m (concurrent)	AD	Knife – mental bar	Single summary offence	Female – involved in robbery with male of service station attendant – offender armed with metal bar and smashed shelving containing merchandise – co-offender armed with knife and forced victim to hand over money – small amount of property stolen – short duration – lesser offender Offence out of character – traumatic experiences as a teenager leading to significant mental health problems and substance abuse On appeal: no error in finding background did not constitute history of profound deprivation under <i>Bugmy</i>
125.	Wood (33) <a href="#">[2022] NSWCCA 84</a>	s.97(1) AR	PG (25%)	4y NPP 2y 6m	AA 3y 6m NPP 2y	Machete	Record – no leniency	In company with second male robbed brothel – second male also armed with machete and axe – \$16,500 taken - equal role – limited degree of planning – limited actual violence but real threat - mid-range Remorse – guarded prospects of rehabilitation – <i>Bugmy</i> background On appeal: disparity established

Last updated: Apr 2022

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