

Aggravated Robbery With Wounding / Infliction of GBH

s.96 (NSW) *Crimes Act*

s. 96 Commit offence under s.95 and wounds or inflicts GBH

Maximum Penalty: 25 years

s 95 (1) Robs, or assaults with intent to rob, any person, or steals any chattel, money, or valuable security, from the person of another, in circumstances of aggravation

(2) Circumstances of aggravation:

(a) alleged offender uses corporal violence on any person,

(b) alleged offender intentionally or recklessly inflicts actual bodily harm on any person,

(c) alleged offender deprives any person of his or her liberty.

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	Binge (35) NSWCCA 6.4.1995	s.96 - wound	VG	MT 6y AT 4y	AD		Victim confronted by three men in his house - punched and hit with stick - tied up - lost consciousness - instigator and inflicted victim's wounds.
2.	MRB (17) NSWCCA 27.4.1998	s.96 - wound Sched: Mal wounding Assault	PG	MT 3y AT 3y	AD	drug, property and personal offences in Children's Court	Removed victim's wallet while being fellated by him in public toilet - stabbed victim three times in chest Problems controlling anger.
3.	Brincat (17) NSWCCA 18.9.1998	s.96 - wound	PG	MT 27m AT 2y (PSC 1m)	AA MT 2y AT 2y	nil	Arranged with co-offender to rob 64y former landlady - entered house through ruse, secured victim and obtained several hundred dollars - placed cardigan over victim's head and hit her with iron pipe - principal Favourable references - one third discount for assistance.

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4.	George Johnson [1999] NSWCCA 243	s.96 - wound s.96 - wound	VG VG	MT 5y 6m AT 3y 6m MT 5y 9m AT 3y 3m	AD	agg BES several	Met victim in bar and became friendly - later in evening robbed and assaulted victim - used broken beer bottles to cut victim - severe injuries - gratuitous brutal violence.
5.	Pham (25) [1999] NSWCCA 225	s.96 - wound Sched: 3 x GIC Receiving	PG	MT 3y AT 2y 6m	AD	unknown	Robbed shop assistant with co-offender - armed with knife while co-offender armed with loaded pistol - struck victim with handle of knife Drug problem
6.	Karaman (18-19) [1999] NSWCCA 412 (2022) 128 A Crim R 72 [2002] NSWCCA 48	s.96 - wound Rob in Company SMV Use offensive weapon Sched: GIC Possess off weapon	PG	MT 7y 6m AT 3y FT 3y FT 12m FT 12m (all concurrent)	AD Crown AA (failure to give assistance) 12y NPP 9y	record includes assault and BES	One of group of males who robbed victims of money and jewellery in city – punched one victim to face – Five months later with two co-offenders entered pawn shop – offender carrying knife – two male proprietors stabbed in neck and face Drug use – low intelligence Failure to give promised assistance at trial of co-offender
7.	Haines (26) [2001] NSWCCA 256	s.96 - wound	PG (1/3 rd for plea and background)	4y NPP 3y	AD	priors - previous custody	Female - with co-offender robbed taxi driver of \$50 - held knife to victim's throat causing laceration - co-offender wounded victim in back Aboriginal.

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8.	Teoka (22) Lloyd (18) ADM (17) [2004] NSWCCA 373	s.96 - GBH s.96 - GBH s.96 - GBH	PG (20%) PG (20% on appeal) PG (15%)	10y NPP 6y 10y 9m NPP 6y 9m 11y NPP 7y	AA (to backdate sentence) 10y NPP 6y 10y NPP 6y	Assault – breached bail rob in company – breached bail robbery – no previous imprisonment	Punched and kicked male victim until unconscious – serious injuries - ADM took wallet – T instigated assault – ADM instigated robbery T – remorse – upset at time of offence over breakdown in relationship with de facto – good prospects of rehabilitation L – remorse – disturbed childhood ADM – no remorse – more culpable than others
9.	Nasher (18) [2005] NSWCCA 238	s.96 - GBH	PG (18%)	6y NPP 3y	AA 4y NPP 2y	Minor record as juvenile; offences in breach of bail	Attacked acquaintance from school – thought friends were going to rob victim – fractured victim’s jaw and took \$100 – jealous of victim’s comfortable financial situation Eldest of 8 children in dysfunctional family – sexually abused as a child – good employment record – good prospects of rehabilitation Not all pre-sentence custody taken into account at first instance
10.	Maisey [2005] NSWCCA 347	s.96 - GBH	PG (25%)	9y NPP 5y 9m	AD	Not stated but breached parole	Victim physically abused offender’s sister – offender went to victim’s flat with friend to get shoes he had given his sister – punched victim when he opened door – took victim’s wallet – victim jumped off balcony and sustained serious injuries with chronic back pain Remorse – family loyalty
11.	Collins (19) [2006] NSWCCA 162	s.96 - wound	VG	8y NPP 5y	AA To backdate sentence only	On bond - dishonesty, assault, AOABH, larceny.	Female - slashed victim’s handbag strap with knife taking \$500 – offence committed with victim’s estranged husband – knew victim vulnerable with spinal injury and using crutch. Background of heroin and prostitution - paranoid personality disorder.

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12.	Thomas (20) [2007] NSWCCA 269	s.96 - wound s.97(1) - Rob in Co	PG (15%) VG	3y 5m NPP 18m 3y 6m NPP 18m <u>Total:</u> 4y NPP 2y	Crown AA 4y NPP 2y 4y NPP 2y <u>Total:</u> 5y NPP 3y	nil – second offence breached bail on first offence	In company of co-offender pursued male stranger on street at night, kicked him while on ground and struck him with bottles in bag - stole beer bottle – opportunistic – leader - circumstance of aggravation was use of corporal violence 6 weeks later one of four youths who stopped and assaulted male walking in park – victim pushed and kicked and briefcase stolen
13.	Carriage [2009] NSWCCA 147	s.96 - wound	PG (25%)	2y 8m NPP 18m	Crown AA to remove assistance discount 4y NPP 2y 3m		One of two men who attacked taxi driver sitting in parked car – no further details Given one third discount for nominating co-offender – subsequently at trial of offender claimed he had nominated wrong person
14.	MW (17) [2010] NSWCCA 324	s.96 - wound	PG (35% plea and assist)	3y 3m NPP 1y 9m	AA 2y 9m NPP 1y 6m	limited	Part of groups who assaulted and robbed male at train station in early hours of morning – not instigator of offence Long delay between arrest and sentence - aboriginal
15.	JT (16) [2011] NSWCCA 128	s.96 - GBH	PG (25%)	6y NPP 3y 2m	AD	assault offences – larceny – breached bonds	In company of co-offender assaulted 14y victim asking for money – kicked and stomped on victim's head – victim rendered unconscious – violence sustained and substantial. Substance abuse – troubled youth - longstanding anger problems.
16.	SJ (17) [2011] NSWCCA 160	s.96 - wound	PG (15%)	5y 11m 12d NPP 3y 2m	AD	Nil	Leader of five youths who attacked 14y male on street at night – victim punched and stomped on head – shoes, wallet and wristwatch stolen – premeditated attack – leader seeking to maintain his reputation No remorse
17.	Lobsey [2012] NSWCCA 239	s.96 - GBH	PG	7y 6m NPP 5y	AD	Lengthy including violence	Grabbed bag from 73y female in car park causing her to fall heavily – continued to pull bag dragging victim across ground – victim broke neck of femur and had hip replacement Genuine contrition – drug and alcohol user

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18.	IS [2017] NSWCCA 116	s.96 - GBH s.195(1)(b)	PG (15%)	6y 9m NPP 3y 9m 15m NPP 9m <u>Total:</u> 7y 3m NPP 4y 3m	AA 5y NPP 2y 10m 15m NPP 9m <u>Total:</u> 5y 6m NPP 3y 4m	Earlier offences resulting in non-custodial sentences	Approached female sitting in parked car – grabbed car keys and bag and tried to drag victim from car – punched victim in face when she got caught in seat belt – drove off in car – later destroyed car by fire – offence spontaneous and committed in company Aboriginal with upbringing dominated by parental criminal activity, substance abuse, severe and chronic neglect and familial violence – resulted in foster care – early drug use – remorse and some good prospects of rehabilitation Failure to give sufficient weight to <i>Bugmy</i> principles
19.	Stines [2019] NSWCCA 115	s.96 - wound	PG (25%)	6y 9m NPP 4y 6m	AA 5y 3m NPP 3y 6m	theft, driving, drug offences	Struck victim six times to head with serrated metal pole – took victim's wallet and backpack Difficult background – drug use - mild intellectual disability
20.	Melvaine [2019] NSWCCA 274	s.96 – wound	PG (15%)	8y 6m NPP 6y	AD	prior record – breached conditional liberty	Attended two parties during night becoming intoxicated and aggressive – approached 76y male stranger on street in early hours of morning – punched victim several times to face and pushed against fence – sustained attack – took victim's pension money leaving him with \$100 – callous and cowardly attack – vulnerable victim - offending of very high gravity Family history of mental illness – disadvantaged background – <i>Bugmy</i> considerations generally taken into account On appeal: no error and not outside range
21.	TM (15; 16 at sentence) [2023] NSWCCA 185	s.96 – GBH Sched: Rob in co.	PG (25%)	3y NPP 12m	AA 3y NPP 9m	Nil	With five co-offenders, assaulted male victim (stranger) at shopping complex – unprovoked - punched and kicked to head until victim unconscious - impulsive and spontaneous - violence resulted in debilitating injuries. CCA: SJ failed to have regard to applicant's young age when assessing moral culpability. Significant deprivation and disadvantage - poor emotional regulation – family support - good prospects of rehabilitation - special circumstances.

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22.	AJ (15) [2023] NSWCCA 235	s.96 – GBH Sched: 2 x Rob in co, demand property	PG (25%)	3y 3m NPP 1y 6m	AA 3y 3m NPP 1y	Nil	With five co-offenders, assaulted male victim (stranger) at shopping complex – unprovoked – while victim lying on ground, applicant kicked and stomped head and body until victim unconscious - impulsive and spontaneous - violence resulted in debilitating injuries. CCA: Disparity with co-offender TM [2023] NSWCCA 185 - low risk of reoffending – remorse - exposed to violence in the family home as a young child and adolescent.

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