

Aggravated Robbery

s.95 (NSW) Crimes Act

s 95 Robs, or assaults with intent to rob, any person, or steals any chattel, money, or valuable security, from the person of another, and immediately before, or at the time of, or immediately after such robbery, assault, or larceny from the person, strikes, or uses any other corporal violence to any person

Maximum Penalty: 20 years

Substituted: 23.12.1994:

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.

Maximum Penalty: 20 years

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|----|--------------------------------------------------------|----------------------------------------------|------------------------|------|---------------------------------------------|----------------------------------------------------|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | Brindley NSWCCA (1993) 66 A Crim R 204 | Acc after the fact to s.95 Assault | striking | PG | MT 2y AT 8m FT 9m (concurrent) | AA MT 12m AT 8m FT 9m (concurrent) | | Planned with three others to rob people on the street – stood apart while first victim robbed – alcohol purchased with stolen money – assaulted second victim by punching Extraordinary that Crown accepted plea to accessory after fact – breached <i>De Simoni</i> |
| 2. | Goolagong NSWCCA 28.9.1994 | s.95 | striking | PG | MT 3y AT 1y | AD | | Stole handbag from elderly lady in underground car-park, struck and forced victim to ground - significant injuries |
| 3. | Lego (20) NSWCCA 24.4.1995 | s.95 | striking | PG | MT 2y 6m AT 18m | AD | assault | In company with another hit victim over head with stubby and it broke - no permanent injury - grabbed wallet and decamped. |
| 4. | Docherty NSWCCA 27.11.1995 | s.95 | striking | VG | MT 15m AT 2y | AA MT 12m AT 2y 2m | | Group of four set upon victim |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|--------------------------------------------------------------|---------|------------------------|------|----------------------------------------------------------------------------------|------------------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. | Ellem (31) NSWCCA 18.12.1996 | s.95 | corporal violence | PG | MT 4y AT 2y | AD | Violence offence. | Assaulted and robbed victim after night of drinking together - stole \$50 from wallet - victim related to offender |
| 6. | Douglas (24) NSWCCA 4.3.1997 | s.95 | corporal violence | PG | Bond 2y conditional upon treatment Odyssey House | Crown AD | Possess drug, BE&S | Snatched handbag from victim – victim suffered fractured shoulder Drug addiction |
| 7. | Marino (25) NSWCCA 9.4.1997 | s.95 | striking | PG | MT 3y AT 3y | AD | personal and property offences - previous custody – breached parole | Attacked victim in public toilet - took wallet and threatened victim after noting victim's address Drug abuse - deprived background. |
| 8. | Woodfield (21) NSWCCA 11.6.1997 | s.95 | corporal violence | PG | MT 18m AT 2y 6m | AD | nil | Punched and robbed employee taking cheques and cash to bank - considerable planning Assistance to authorities - immature - likelihood of rehabilitation |
| 9. | Turner (19) NSWCCA 1.9.1997 | s.95 | striking | PG | 2y 6m PD Upon breach of PD order resentenced: MT 1y 10m AT 8m | AA MT 1y 5m AT 1y 1m | Property offence - no previous custody. | With co-offender assaulted victim stealing \$6400. Deprived background - personality disorder. |
| 10. | Darkin (19) NSWCCA 10.9.1997 | s.95 | corporal violence | PG | MT 4y AT 2y | AA MT 3y 6m AT 2y | property offences | With group of males attacked victim in park – victim punched and stabbed in thigh - stole \$3000 worth of property Heroin addiction - left school at 14 - behavioural problems. |
| 11. | Smith (19) [1999] NSWCCA 45 | s.95 | striking | PG | MT 2y AT 2y | AA only to backdate sentence | stealing, BE&S, fraud, AOABH | Following argument with victim stomped on head while victim semi-conscious - took money from pockets Aboriginal background - violent home - serious drug and alcohol problems. |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|---------------------------------------------|------|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12. | Locke (39) [2000] NSWCCA 19 | s.95 Sched: PCA Drive while canc Fail to appear | corporal violence | PG | MT 2y AT 1y 6m | AA MT 1y 6m AT 1y | violence, property, fraud - previous custody. | With 11y nephew accepted overnight accommodation from victim - when victim expressed sexual interest in nephew, attacked victim stealing motor vehicle to escape. Aboriginal background - drinking prior to offences. |
| 13. | Liddicoat (31) [2000] NSWCCA 111 | s.95 Carried in conveyance | | PG | MT 3y AT 1y FT 12m (concurrent) | AA MT 2y AT 1y FT 12m (concurrent) | predominantly prostitution offences | Female – attempted to grab handbag of female outside fire station while co-offender waited in stolen car Drug addiction – mother to four children |
| 14. | Abou-Jibal [2000] NSWCCA 127 | s.95 | inflict ABH | PG | MT 2y AT 18m | AD | breached suspended sentence | Snatched bag from female leaving bank – victim injured as pulled down stairs - pre-meditated. Gambling addiction |
| 15. | Duma (18-19) [2000] NSWCCA 132 | s.95 s.95 Assault police Carried in conveyance Sched: 2 x assault | corporal violence deprive liberty | PG | MT 3y AT 12m FT 12m FT 12m FT 6m (all concurrent) | AA 4y NPP 2y 6m FT 12m FT 12m FT 12m / 6m (all concurrent) | malicious wounding, conceal serious offence and dangerous driving | One of four offenders who robbed victim – gold chains torn from neck – victim punched and kicked – wallet, cigarettes and lighter stolen – co-offenders juveniles – one year later stole car with co-offenders and drove to bank – forced staff and customers to lie on floor – one customer knocked unconscious – three offenders jumped counter and stole \$40,000 – high speed police chase – struggled when arrested Some evidence of improved behaviour |
| 16. | Mason (19) [2000] NSWCCA 207 | Assault with intent s.95 | | PG | MT 4y AT 16m | AA MT 3y AT 2y 4m | violence offences – this offence committed 3 days after release to parole for sexual offence | Released to parole into residential care – assaulted female carer by placing in head lock and punched to head – dragged victim to toilet and locked her in Special circumstances in view of previous sentences |
| 17. | HMB [2000] NSWCCA 554 | s.95 | | VG | MT 18m AT 2y | Conviction AD | | With 2 co-offenders robbed service station - male co-offender threatened and hit attendant on arm with axe |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|-------------------------------------------------------------|----------------------------------------------------------------|---------------------------------------|------|----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18. | Black (20) [2001] NSWCCA 41 | s.95 | corporal violence | PG | 3y 1m NPP 1y 8m | AA 2y 6m NPP 16m | no significant priors | Struck supermarket checkout sales assistant in face with fist - removed \$230 from till. Affected by heroin and cocaine at time of offence - little premeditation - good rehabilitation prospects. |
| 19. | White (44) [2001] NSWCCA 108 | s.95 (steal from person) Rob in Company AOABH | | VG | MT 2y AT 21m FT 14m FT 12m <u>Total:</u> MT 3y 2m AT 21m | AD | record includes violence | Met up with acquaintance – after drinking walked down street and stole money from pocket of male walking past (rob in company) – offenders then approached two males sitting near park – kicked and punched victims – offender hit one victim over head with didgeridoo rendering momentarily unconscious |
| 20. | Elchami (23) [2001] NSWCCA 285 | s.95 Rob in company Sched: assault larceny | corporal violence and deprive liberty | PG | 5y 6m NPP 12m 4y NPP 12m | Crown AA 5y NPP 2y FT 12m <u>Total:</u> 6y NPP 3y | drugs and dishonesty offences – breached bail | Three offenders sought confrontation with male acquaintance over drug matter – met up with and punched cousin to acquaintance – forced victim to walk to hotel and find cousin – victim punched multiple times and threatened - wallet stolen – subsequently found male acquaintance – punched and threatened him with knife (sched offence) - on separate occasion robbed male with co-offender – held extendable baton held to neck of victim |
| 21. | Tan (27) [2001] NSWCCA 490 | s.95 Demand money with menaces | | PG | 8y NPP 5y FT 4y (concurrent) | AD | nil | Two offenders forced female victim parking her car at in her garage into van at knifepoint – bound eyes, wrists and ankles with masking tape – drove around – took keys to unit from handbag – returned to victim's unit to steal money – obtained cards and PINs from victim and withdraw \$1,960 – released victim in order to facilitate transfer of \$10,000 – threatened son – subsequent controlled delivery of money to offenders by victim constitutes second offence |
| 22. | RY (13) [2001] NSWCCA 499 | s.95 | corporal violence | PG | 12m NPP 9m | AA Control order 12m NPP 6m | nil | With two co-offenders punched and kicked victim at shopping mall after victim refused to give offender money - stole mobile phone. Borderline intellectual disability - mental and personality disorder |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|-----------------------------------------------------------------------------------|----------------------------------------------------------------------|------------------------|--------------------------|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 23. | Maloukis (32) [2002] NSWCCA 155 | s.95 3 x s.95 s.94 Robbery Sched: 4 offences | corporal violence | PG | 4y NPP 2y FT 2y FT 2y (all concurrent) | Crown AA 4y NPP 18m FT 2y FT 2y <u>Total:</u> 6y NPP 3y 6m | extensive record incl drugs, violence - previous custody - breached bond. | Over five months committed bag-snatch robberies upon elderly female victims by driving alongside victim and grabbing handbag - some victims injured by falling - high degree of criminality and planning. Drug abuse |
| 24. | Ellis (20) [2002] NSWCCA 211 | s.95 Receiving | corporal violence | PG (15% on appeal) | 4y NPP 2y 3m FT 6m (concurrent) | AA 3y NPP 21m FT 6m (concurrent) | driving and property offences - breached bond | Four offenders approached three victims in early hours of morning - knife produced - two offenders chased victim with knife and stole wallet - offender and another co-offender threatened remaining two victims - claimed to have knife - both victims punched and knocked to ground - watch and wallet stolen Mild intellectual disorder - difficult childhood - disparity with juvenile co-offender in view of immaturity - some evidence of rehabilitation |
| 25. | Nguyen (19) [2002] NSWCCA 305 | 2 x s.95 Rob in Company | deprive liberty | PG | 3y 6m NPP 18m FT 18m (all concurrent) | AD | nil | With co-offender confronted victim in shopping centre and demanded wallet - several weeks later one of three offenders demanded wallets and PINs from two victims - two offenders left to ascertain PINs incorrect - returned and demanded correct numbers - left victims again with third offender and withdrew money from victim's accounts - under influence of co-offender - played active role although not instigator Prospects of rehabilitation |
| 26. | Vincent (2002) 133 A Crim R 206 [2002] NSWCCA 369 | s.95 Att dispose stolen property | corporal violence | VG PG | 6y NPP 3y FT 18m <u>Total:</u> 7y 6m NPP 4y 6m | AD | lengthy record | Robbed chemist with co-offender Suffered significant head injury from car accident early in life - long term effect on behaviour |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|-------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------|------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 27. | O'Brien (18) [2002] NSWCCA 411 | s.95 Use off weapon to avoid apprehension Drive conveyance Sched: 5 offences | inflict ABH | PG (15%) | 4y NPP 2y FT 12m FT 12m <u>Aggregate</u> 6y NPP 4y | AD | lengthy record – breached suspended sentence | Stole car and caused extensive damage – one week later during police chase rammed police vehicles causing police officer to become trapped – one month later unprovoked and sustained attack on male at bus stop – stole backpack Difficult background – drug and alcohol addiction – intoxicated at time of offences |
| 28. | Kemsley (18) [2003] NSWCCA 221 | s.95 | corporal violence | VG | 2y NPP 12m | AD | Includes common assaults and knife in public place | Assaulted male in street outside Pizza Place – angered by involvement of victim with girlfriend of offender – punched and strangled – stole necklace and earring |
| 29. | Kerr (32) [2003] NSWCCA 234 | s.95 | corporal violence and inflict ABH | VG | 14y NPP 11y | AA 10y 2m NPP 7y 9m | Lengthy record | Led two other younger men to house of victim to steal cannabis plants – forced entry and assaulted victim with handgun – co-offender armed with baseball bat Aboriginal with deprived and disrupted childhood – recent prospects of rehabilitation |
| 30. | Fosse (52) [2003] NSWCCA 347 | s.95 Att dishonestly obt money by deception Make false instrument Present false instrument Larceny | inflict ABH | PG | 4y NPP 18m FT 18m FT 12m FT 12m FT 6m <u>Total:</u> 4y 4m NPP 1y 10m | AD | robbery and other offences – no imprisonment – breached bond | Female when 82y male friend suffering dementia refused to lend offender money she assaulted him and took bank book – forced him to sign withdrawal slip but bank declined cheque – forged signature on second withdrawal slip next day but bank still declined – drove off without paying for petrol Physical and mental health issues |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|-----------------------------------------------------------------------------------------------|------------------------------------------------------------------|--------------------------------------------------|--------------|------------------------------------------------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 31. | Tran (19) [2004] NSWCCA 6 | s.95 Att s.95 Sched: Rob in Co Att Rob in Co | corporal violence corporal violence | PG (20%) | 4y NPP 2y FT 2y 8m <u>Total</u> 6y NPP 4y | AA 3y 6m NPP 18m FT 2y 8m <u>Total</u> 5y 6m NPP 3y 6m | | With 3 co-offenders robbed school boys aged 14-15y – victims punched and kicked – money and phones stolen – one offence committed alone Parity |
| 32. | Chebat [2004] NSWCCA 211 | s.95 | | PG | 2y 6m NPP 1y 3m | AD | Nil | With co-offenders attacked male – squeezed throat and hit head on wall – sustained assault including kicking and punching Youth – prior good character – head injuries from car accident |
| 33. | Sarcasmo (29) [2004] NSWCCA 277 | s.95 | inflict ABH | PG (25%) | 3y NPP 2y 6m | AA 3y NPP 18m | Lengthy – on bail – no previous imprisonment | Grabbed handbag from 44y female victim – caused victim to fall to ground Heroin withdrawal – need for drug treatment and counselling |
| 34. | Walter (32) Thompson (23) [2004] NSWCCA 304 | s.95 | inflict ABH | PG PG | 5y NPP 6m 3y NPP 4m (Periodic Det) | Crown AA 4y NPP 12m 3y NPP 9m | Record including violence – no gaol Juvenile record only - no violence or gaol | Approached male stranger in street at night and demanded jeans – victim punched in eye and kicked on ground – removed jeans, shoes and other valuables – DW more culpable - delay MT – Aboriginal – borderline intellectually handicapped – evidence of positive rehabilitation' DW – Aboriginal – suffered physical and racial abuse as a child |
| 35. | Hala, aka Black (19) [2004] NSWCCA 329 | s.95 | | PG (25%) | 3y 6m NPP 1y | AD | Record including violence; bonds breached | Attacked 2 youths about an earlier conversation – struck one victim – took mobile phone - opportunistic crime Alcohol – abuse by step-father – ADD – contrition. |
| 36. | Fields (40) [2005] NSWCCA 37 | s.95 | inflict ABH | PG (25%) | 6y NPP 4y | AD | Lengthy record – breached bond | Went to home of 61y disability pensioner in company and demanded money, then punched victim in face – put knife to victim's throat and threatened to kill – kicked about body – serious injuries – no recollection of event Alcohol and cannabis – aboriginal and removed from mother's care at 6 weeks – illiterate and innumerate – poor health – interested in 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.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|------------------------------------------------------------------------------------------|---------|------------------------|-----------------------------|------------------|---------------------------|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 37. | Sundar (31) [2005] NSWCCA 93 | s.95 | corporal violence | PG | 5y NPP 3y | AA 3y NPP 2y | Relatively minor record | Attacked victim in belief victim had stolen property from his girlfriend – punched victim and took health care card from wallet – unaware co-offender had knife Parity – insufficient discount for assistance to authorities and contrition and utilitarian discount for plea - depression – delusional |
| 38. | Mcllwraith (22) [2005] NSWCCA 137 | s.95 | inflict ABH | PG (25%) | 6y NPP 4y 6m | AD | Extensive record – breached parole | Robbed video store with co-offender – assaulted male and stole money and phones |
| 39. | Atonio (20) (2005) 154 A Crim R 183 [2005] NSWCCA 200 | s.95 | corporal violence | PG (15-20%) | 5y NPP 3y | AD | Significant – breached bond and parole | Accosted victim at train station and demanded money or mobile – punched victim twice in face – arrested at scene Low IQ – affected by alcohol |
| 40. | Suaalii (23) [2005] NSWCCA 206 | s.95 | deprive liberty | PG (25%) | 9y NPP 6y 6m | AA 6y 8m NPP 4y 6m | Nil but since sentenced for AOABH | Security guards went to hotel where co-offender worked - tied up co-offender and employers, including 6m pregnant female - threatened bomb in building - \$31,500 taken from safe S – Samoan – insufficient weight given to youth and rehabilitation prospects – M – Samoan – good employment history – previously worked at hotel - special circumstances – educational courses in prison |
| | Mauai (20) [2005] NSWCCA 207 | s.95 | deprive liberty | PG (30% plea and assist) | 9y NPP 6y 6m | AA 6y 8m NPP 4y 6m | Nil | |
| 41. | Freeman (19) [2005] NSWCCA 460 | s.95 | inflict ABH | PG (15%) | 3y 4m NPP 2y | AA 3y 2m NPP 1y 10m | Criminal record – breached parole | Female with co-offender robbed train passenger – victim assaulted by co-offender Parity |
| 42. | Malcolm [2006] NSWCCA 323 | s.95 | | PG | 3y 4m NPP 2y | AD | | Assaulted person outside train station – stole mobile phone – unprovoked attack Intellectual disability |
| 43. | Perkins (32) (2007) 169 A Crim R 516 [2007] NSWCCA 80 | s.95 | inflict ABH | PG | 3y 6m NPP 18m | AD | Not relevant | Intoxicated at hotel – began talking to hotel staff about “killing someone” and “scoring” drugs – left in taxi – threatened taxi driver with sharp implement causing lacerations to victim’s neck. Out of character – suffering depression due to serious neck injury - special circumstances. |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|----------------------------------------------------------------|--------------------------------------------------------------|------------------------|--------------------------|--------------------|-----------------------------|-------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 44. | Saban (31) [2007] NSWCCA 139 | s.95 Sched: 2 x s.99 s.61 | | PG (25%) | 6y 9m NPP 4y 9m | AD | Lengthy record – violence – breached parole | Assaulted male with knife – demanded motor bike – took mobile phone – on separate occasion pushed female acquaintance – next day threatened returns' desk at supermarket Dysfunctional and fearful childhood – drug addiction – suffering depression and anxiety |
| 45. | Tortell (19) | s.95 Sched: Carried in stolen conveyance | corporal violence | PG (25%) | 300 hours CSO | Crown AD | Nil | Robbed victim of \$51K while proceeding to deposit money at bank on behalf of client – offender's had been notified by telephone of victim's movements by client of victim. Strong subjective features - limited planning of offence – prior good character - youth – rehabilitation Tortell suffering mental health condition. |
| | Tsegay (18) [2007] NSWCCA 313 | s.95 Sched: Carried in stolen conveyance | | PG (25%) | 300 hours CSO | Crown AD | Nil | |
| 46. | Azzi [2008] NSWCCA 169 | s.95 Sched: Fail to disclose identity of passenger | corporal violence | PG (25%) | 3y NPP 18m | AD | Violence – breached bail | Met victim to discuss purchase of puppy – punched victim in face before leaving – impulsive offence – knife visible in jacket pocket – refused to reveal identity of persons in car |
| 47. | Priest (28) [2009] NSWCCA 33 | s.95 Sched: Carried in conveyance | inflict ABH | PG (toward lower end) | 4y NPP 2y | AA 3y 4m NPP 1y 8m | Record | With co-offender drove victim to remote area – victim assaulted and robbed of wallet – left to walk home Difficult childhood – drug addiction |
| 48. | Ferenc [2009] NSWCCA 126 | s.95 | corporal violence | PG (15% on appeal) | 2y 6m NPP 18m | Crown AA 4y 3m NPP 3y | Armed robbery, robbery in company, assault with intent to rob. | Robbed pizza delivery man who had come to deliver pizza – punched victim in face – demanded money. Alcohol addiction. |
| 49. | Sheather (19) [2009] NSWCCA 173 | s.95 | corporal violence | PG | 3y NPP 1y 4m | AA 2y NPP 1y | Possess drug | With 3 co-offenders robbed taxi driver – asked taxi driver to drive to remote location – one co-offender struck victim in head with a mallet – no serious injuries. Parity – juvenile co-offenders |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------|-----------------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 50. | Nanai (26) [2010] NSWCCA 21 | s.95 | inflict ABH | PG (25% on appeal) | 6y NPP 4y 6m | AA 4y 6m NPP 3y 4m | Agg robbery, offences violence, sexual assault | With co-offender initiated unprovoked assault upon 22y male victim late at night on street – pushed victim against wall and head butted victim. Alcohol issues On appeal discount for guilty plea |
| 51. | Simpson (30) [2010] NSWCCA 225 | s.95 (steal from person) | inflict ABH | PG | 2y 10m NPP 10m | AD | | Female - used umbrella to take bag hung up in toilet cubicle – victim in cubicle hit on head causing bruising and swelling Pregnant with eighth child – all children with other people – drug abuse – under influence of drugs – difficult personal history |
| 52. | Couch-Clarke (19) [2010] NSWCCA 288 | 2 x s.95 – Agg assault with intent to rob s.95 s.114(1)(d) s.59 Sched: AOABH Affray | corporal violence corporal violence | PG (25%) | FT 18m 3y NPP 2y FT 9m FT 12m <u>Total:</u> 4y 6m NPP 3y 6m | AA / Crown AA FT 6m 3y 6m NPP 2y 6m FT 9m FT 12m <u>Total:</u> 4y 6m NPP 3y 6m | Breached bonds – minor record | Entered hotel room with three others - assaulted and robbed teenage male occupants |
| 53. | Marr (24) [2011] NSWCCA 15 | s.95 | inflict ABH | PG | 5y NPP 3y 9m | AD | Prior custody | With co-offender robbed attendant at swimming pool – victim punched to face and head, kicked after falling and head stomped several times Lengthy drug addiction |
| 54. | O'Hare (30) [2011] NSWCCA 252 | s.95 | corporal violence | PG (25%) | 4y 10m NPP 3y 4m | AD | Manslaughter – single punch – committed further offence while on parole for manslaughter – significant prior record | Assaulted shop assistant in toy shop – threatened with gun although did not have gun – punched and kicked – stole money from cash register Dysfunctional and violent family – drug and alcohol issues |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|--------------------------------------------------------------|-----------------------------------------------------------|------------------------|-----------------------------------|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 55. | Newman (24) [2012] NSWCCA 69 | Ass with intent s.95 Assault 2 x s.99(2) | corporal violence | PG | 4y 6m NPP 2y 9m FT 9m 18m NPP 12m <u>Total</u> 5y 6m NPP 3y 9m | AA 4y 6m NPP 2y 9m FT 9m 18m NPP 12m <u>Total</u> 5y NPP 3y 3m | driving offences and assault offences | With group of offenders approached male victim sitting on front lawn in early hours of morning and punched him to face – offender and co-offender followed victim into house – offender punched victims and demanded money from victim and cousin – one episode |
| 56. | Renshaw (32) [2012] NSWCCA 91 | s.95 | inflict ABH | PG (25%) | 1y 10m NPP 12m | AA to backdate sentence by 6mth | | Robbed service station operator – lunged at victim and held victim in headlock – forced victim to open cash register - took \$400-\$700. Alcohol addiction – remorse - successful attendance at strict residential rehabilitation course over 14 months – taken into account on appeal as quasi-custodial |
| 57. | Diep (21) [2013] NSWCCA 39 | s.95 | inflict ABH | PG (40% plea and assist) | 4y 9m NPP 2y 6m | AA 4y NPP 2y | Nil | With co-offender robbed victim after seeing victim collect cash winnings from poker machines at club – followed victim back to his premises – grabbed victim around throat and punched repeatedly to face and head – went to casino and gambled money. Gambling addiction – good family background - parity |
| 58. | Trindall (42) [2013] NSWCCA 229 | 3 x s.94 s.95 5 x summary offences | | PG | <u>Aggregate</u> 6y NPP 4y | AD | Lengthy – includes AR – released to parole three months prior | Grabbed handbags from women – one victim fell to ground and injured Aboriginal – difficult childhood – substance abuse |
| 59. | Bonett [2013] NSWCCA 234 | s.95 Take and drive conveyance | deprive liberty | PG (20%) | 3y 6m 1y <u>Aggregate</u> 4y NPP 2y | AD | driving offence | Female – one of four offenders agreed to rob victim in his home – believed victim had been using 16y female co-offender for sexual favours – victim forced to take tablets and bound – male co-offender assaulted victim causing fracture to eye socket |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|-------------------------------------------------------------------|--------------------------------------------|------------------------|-------------|------------------------------------------------------------------------|--------------------------|----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 60. | J Mitchell (19) | s.95(1) | corporal violence | VG | 4y NPP 1y | Crown AD | criminal record – dishonesty offences – breached conditional liberty | Brothers committed series of robberies – J arranged robbery and took mildly disabled man to ATM to withdraw \$700 – M assaulted victim and took money – J and other offenders robbed 72y delivery man after kicking victim to face – several days later J ordered food delivery - delivery driver robbed by several offenders one of whom struck him to head with cricket bat – victim rendered unconscious – both offenders participated in break and enter of a house – occupant punched in head upon return Extremely deprived childhood – mother a prostitute – early drug exposure and addiction – sexual and physical abuse – mental health issues Crown appeal dismissed in view of evidence of progress in custody, imminent release date and parity |
| | | s.95(1) | corporal violence | PG (25%) | 3y NPP 18m | | | |
| | | s.97(1) – Rob in company Agg BES | | | 3y NPP 18m 2y NPP 1y <u>Total:</u> 6y NPP 3y | | | |
| | M Mitchell (24) [2014] NSWCCA 33 | s.95(1) | corporal violence | VG | 4y NPP 18m | Crown AD | violence and dishonesty – breached bail | |
| | | s.97(1) – Rob in company Agg BES | | PG (25%) | 3y NPP 18m 2y NPP 1y | | | |
| | | s.166 Assault | | | FT 6m <u>Total:</u> 4y 9m NPP 2y 3m | | | |
| 61. | Kukovec (20) [2014] NSWCCA 308 | Aid and abet s.95 | corporal violence | PG (25%) | 3y 6m NPP 2y | AA 2y 6m NPP 2y 6m | record includes rob in company and assault – breached bail | Passenger on motorcycle – waited while co-offender approached female in car at train station – rocked vehicle, smashed window and punched victim – took handbag – returned to motorcycle and gave offender handbag Early drug abuse led to metal health issues – heavily intoxicated at time of offence – residential rehabilitation on bail taken into account |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|--------------------------------------------------------------|----------------------------------------------------|--------------------------|-----------------------------------|-------------------------------------------------------------------------------------|----------------------------------|---------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 62. | James [2014] NSWCCA 311 | Acc after fact to s.95 | inflict ABH | PG (50% plea and assist) | 30m NPP 20m | Crown AD AA 18m NPP 12m | Breached parole | Met up with victim in victim's car to discuss sale of drugs - co-offender approached car and robbed victim, taking gold chain and other items – sought to protect victim during attack - told victim not to go to police and slashed back tyre – feared he would be sent back to gaol Difficult upbringing – drug addiction due to history of sexual abuse |
| 63. | MacDonald [2015] NSWCCA 280 | s.95 s.86(1) 2 x Indecent assault | deprive liberty | VG | 6y 6m NPP 3y 6m FT 4y 6m FT 2y <u>Total</u> 8y NPP 5y | AD | | Approached female cleaner in her 60s at café in early hours of morning – obtained tools to break into cash registers – forced victim to help him smoke a cigarette – pushed victim with wooden mallet and threatened victim and family – stayed at café for 10-15 mins – forced victim to help him carry alcohol and cash registers to her car – forced victim to accompany him to isolated area – fondled victim's breast and genitals through clothing – allowed victim to leave |
| 64. | Melaisis (27) [2018] NSWCCA 184 | s.95 | inflict ABH | VG | 3y NPP 1y 10m | AA 1y 8m NPP 1y 3m | AOABH, affray, supply drugs. | Seized victim's mobile phone during argument over parking space in car park – victim taking photo of offender's car - twisted victim's thumb causing temporary ligament damage - phone discarded by offender and recovered by victim - offence of short duration - not premeditated - overreaction History of steroid abuse –low risk of re-offending – employed – favourable subjective circumstances |
| 65. | Kim (37) [2018] NSWCCA 254 | s.95 | use corporal violence | PG (25%) | 3y NPP 18m | AD | record – alcohol related | Followed female off bus and attacked her – victim fell to ground – punched victim 405 times with closed fist Born in South Korea |
| 66. | Kocyigit (21) [2018] NSWCCA 279 | s.95 | | PG | 2y 7m NPP 1y 7m | AD | | In early hours of morning approached male victim on street with co-offender – co-offender punched victim several times to head and face – took personal property – offence committed according to prior agreement – mid-range Out of character – genuine remorse – reasonable prospects of 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.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|------------------------------------------------------------|-------------------------------------------------------------------------------------|----------------------------|-------------|--------------------------------------------------------------------------------------------------------------------|--------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 67. | Dellow (24) [2020] NSWCCA 301 | s.95 s.148 – steal property in dwelling house s.195 – damage property | Use corporal violence | VG | <u>Indicative:</u> 3y 1y 6m 1y <u>Aggregate:</u> 3y 6m NPP 1y 9m | AD | Lengthy – including violence – released to parole three weeks prior to offences | Forced entry into home of neighbour in early hours of morning – kicked and punched male occupant and threatened to stab – stole TV and laptop – used metal pole to break window of nearby premises of 81y female – all offences towards or at bottom of range – offences aggravated by being committed in home of victims Unfortunate childhood – physical and emotional abuse – neglect and homelessness – poor education – early substance abuse – risk of institutionalisation – high risk of re-offending On appeal – no error in commencing sentence at conclusion of revoked parole period – no error in application of <i>Bugmy</i> principles |
| 68. | Harrold (30) [2021] NSWCCA 88 | s.95 Possess firearm | Inflict actual bodily harm | PG (15%) | <u>Indicative:</u> 4y 3m 2y 1m <u>Aggregate:</u> 5y NPP 3y | AD | Stealing, assault, drug offences, breaking and entering, goods in custody, obtain property by deception, drive whilst disqualified. | With co-offender went to victim's home to sell scrap metal – punched victim to face and removed \$2200 from wallet – punched victim three times during scuffle - dragged victim 50 metres along roadway as victim tried to prevent applicant leaving in vehicle. Drug abuse. |
| 69. | O'Hara (23) [2021] NSWCCA 157 | s.95 s.95 s.97 Rob in company Sched: 2 x steal from person | Inflict actual bodily harm | PG (25%) | <u>Indicative:</u> 2y 20m 15d 2y 9m 2y 7m 15d <u>Aggregate:</u> 5y NPP 2y 10m 14d | AD | | First offence: co-offender grabbed handbag of 70yr female victim, pulled victim to ground face first and dragged her across road, ran to motorcycle which applicant was riding, victim in and out of consciousness, suffered bruising, swelling and laceration to forehead, pain to head, teeth, face – second offence: man grabbed female victim's handbag, pulled victim to ground, ran back to motorcycle where another man waiting and rode off, victim suffered cut to elbow and severe pain - limited degree of planning - offending largely opportunistic – just below mid-range. Remorseful |

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

| | Case (age if known) | Offence | Circumstance of Agg | Plea | Sentence | Appeal | Record | Facts |
|-----|---------------------------------------------|---------|-------------------------------|------|--------------|--------------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 70. | Moloney [2022] NSWCCA 34 | s.95 | Inflict actual bodily harm | VG | 6y NPP 3y | AA 4y 2m NPP 2y 3m | Nil significant | Argument over victim's winnings from poker machine with money borrowed from offender – at nearby service station assaulted victim causing serious injury – stole and attempted to cash in winning ticket – mid-range Remorse – aberration – good character – good prospects of rehabilitation – little prospects of re-offending On appeal: manifestly excessive |

Last updated: Mar 2022