

Armed Robbery with Wounding or GBH

s.98 (NSW) Crimes Act

s 98 Being armed with an offensive weapon, or instrument, or being in company with another person, robs, or assaults with intent to rob, any person, and immediately before, or at the time of, or immediately after, such robbery, or assault, wounds, or inflicts grievous bodily harm

Maximum Penalty: 25 years

Standard Non-Parole Period: 7 years (offences committed on or after 1.2.2003)

	CASE (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
1.	Hamlin (23) NSWCCA 5.5.1997	s.98 AR with wounding s.97 AR	VG	MT 8y 8m AT 3y	AA MT 8y 4m AT 3y 4m	sawn-off shotgun	includes AR	With co-offenders robbed husband and wife at home – threats made to female victim while armed - male victim severely beaten by co-offender - armed with gun - baby in house No good prospects of rehabilitation - committed further offences while on bail
2.	FQ (14) NSWCCA 17.6.1998	s.98 AR with wounding	PG	Griffiths remand	Crown AA MT 18m AT 12m (Juvenile Det)	knife	property offences - on bond	Robbed service station with co-offender armed with knife - operator pushed, hit about the head and dragged to storage area - received head wound Refugees from Afghan civil war
3.	Baker (33) [1999] NSWCCA 277	s.98 AR with wounding	VG	MT 2y 3m AT 9m	AD	knife	lengthy record	Approached male acquaintance on railway station with co-offender - stabbed victim in buttock - stole methadone
4.	Campbell (27) [2000] NSWCCA 157	s.98 AR with wounding	PG	MT 4y 6m AT 2y	Crown AA MT 5y 6m AT 2y	loaded shot gun	lengthy record - most juvenile - violence	Female co-offender approached victim at home asking to use phone due to car breaking down – offender at door threatened victim with shot gun and tied him up - fired at second victim through closed door striking him with pellets. Application of guideline judgment <i>R v Henry</i>

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
5.	London (26) [2000] NSWCCA 165	s.98 Att AR with wounding s.98 AR with wounding Sched: 22 offences including AR x 5	PG	MT 12y AT 4y FT 8y (concurrent)	AD	loaded gun	lengthy	Robbed second hand dealer's shop and shot owner in leg - robbed hotel and shot manager in arm.
6.	Fowler (26) [2000] NSWCCA 352	s.98 Att AR with wounding Escape	VG PG	MT 5y 4m AT 3y FT 12m <u>Total</u> 8y 4m NPP 6y 4m	AD	large knife	breached parole for robbery offence	In early hours of morning broke into residence wearing balaclava and carrying a knife – demanded money – male occupant injured to hand and cheek in struggle
7.	Merritt [2000] NSWCCA 365	s.98 Att AR with wounding SMV	VG	MT 9y AT 5y FT 12m (concurrent)	Crown AD 18y NPP 13y 6m FT 12m (concurrent)	sawn off shot gun	bad	Three offenders robbed security guards taking money to credit union in a hospital – during struggle one guards shot in lower abdomen – grave offence
8.	Ngo (18) [2001] NSWCCA 15	s.98 AR with wounding s.61	PG	3y NPP 18m FT 9m	AD	metal pole		Waved down victims driving in car late at night – pushed metal bar into stomach of male – victim struck from behind and wallet stolen by co-offender – victim continued to be assaulted while on ground – female victim chased and pushed to ground Difficult childhood (lost both parents by 15y) – gambling problem – some evidence of rehabilitation - assistance
9.	Hennessy [2001] NSWCCA 36	s.98 AR with wounding s.97(1) AR 2 x LMV	VG	<u>Total:</u> 16y NPP 12y	AD	handgun	similar offences – released one month prior to offences	Robbed bank using handgun escaping in stolen vehicle – robbed building society using handgun – female shot and seriously injured – escaped in stolen vehicle

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
10.	Smith (20) [2001] NSWCCA 152	s.98 AR with wounding	PG (40% plea and assist)	3y NPP 18m	Crown AD	knife	nil	Robbed prostitute in presence of co-offender in car - intended to scare her with use of knife – victim panicked and cut during struggle - left in remote area Remorse - volunteered guilt - young wife and child - impeccable character - youth - excellent prospects of rehabilitation
11.	Donnelly (26) [2001] NSWCCA 394	s.98 AR with wounding	VG	MT 5y 6m AT 2y 6m	AD	baseball bat	priors	Robbed victim using baseball bat – victim assaulted to head Aboriginal
12.	Noonan [2002] NSWCCA 150	s.98 AR with wounding	VG	8y 6m NPP 5y 6m	Conviction AD	replica sawn-off shotgun and hammer		Broke into house with de facto wife and demanded money - during struggle victim shot in head
13.	Budd (34) [2002] NSWCCA 302	s.98 AR with wounding 13 x s.97(1) AR Att AR Sched: 12 Rob and AR offences	PG (30%)	12y NPP 8y FT 4y – 8y FT 5y <u>Total:</u> 15y NPP 11y	AA 10y NPP 5y 6m FT 4y – 8y FT 5y <u>Total:</u> 13y NPP 8y 6m	knife	lesser offences – larceny, GIC	Robbed or attempted to rob stores and pharmacies over 6mth period armed with knife – some offences involved same place and same victim – on one occasion employee cut to chest and bicep during struggle – small amounts of money taken each time Offences committed to finance heroin addiction – co-operated with authorities to clear up offences
14.	Carberry (28) (2002) 136 A Crim R 55 [2002] NSWCCA 475	s.98 AR with wounding Mal wound	PG (25%)	6y 9m NPP 4y FT 3y (concurrent)	Crown AA 8y 3m NPP 5y FT 3y <u>Total:</u> 9y 3m NPP 6y	tomahawk, piece of wood and rock	lengthy record	With co-offender forced entry into house of two brothers intending to steal cannabis – sustained assault on both victims using tomahawk, timber and rock – struggle continued outside then back in house – one victim sustained permanent damage to eyesight – deliberate and planned attack – leader and more culpable than co-offender Aboriginal with unstable and violent upbringing Co-offender sentenced for s.98 robbery in company with GBH

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
15.	JJM [2004] NSWCCA 71	s.98 AR with wounding	PG (33-40% for plea and assist)	5y NPP 3y	AA 4y NPP 2y	Knife, toy gun	Traffic, no previous custody	Waited at door while co-offender threatened female shop attendant with knife and demanded money – victim received lacerations to hand – offenders took \$294 – went to hospital and confessed to offence short time later. Schizophrenia – early surrender – need for long term rehabilitation.
16.	Tobar (19) JAN (16) [2004] NSWCCA 391 (2004) 150 A Crim R 104 Co-offender: P	s.98 AR with wounding s.97(1) AR s.97(1) Att AR Sched: 3 x AR s.98 AR with wounding s.97(1) AR s.97(1) Att AR Sched: 3 x AR	PG (30%) PG (30%)	10y NPP 5y 6y NPP 3y 6y NPP 3y (all concurrent) 10y 6m NPP 5y 6m 6y NPP 3y 6y NPP 3y (all concurrent)	AA 6y 3m NPP 3y 5y NPP 2y 6m 5y NPP 2y 6m (all concurrent) 6y 3m NPP 3y 5y NPP 2y 6m 5y NPP 2y 6m (all concurrent)	meat cleaver – baseball bat	nil nil	NPP 7 Years All offenders approached three men on street – P armed with meat cleaver and J with bat – threats made and property taken – one victim suffered serious laceration to wrist – less than 30mins later robbed two men on street – threatened with meat cleaver and bat – J struck one victim with bat causing unconsciousness – evening of same day attempted to rob security guards – desisted when one guard produced gun T – voluntarily surrendered to police on advice of father – depressed since death of mother – genuine remorse – strong prospects of rehabilitation J – some potential for rehabilitation
17.	P (17) [2004] NSWCCA 218 Co-offenders: TOBAR JAN	s.98 AR with wounding AR Sched: 3 related rob off	PG (25%)	11y NPP 6y 6y NPP 3y (concurrent)	AA 6y 9m NPP 3y 6m 5y NPP 2y 6m (concurrent) Total: 7y 3m NPP 4y	Meat cleaver	Record for robbery in company	NPP 7 Years In company with co-offenders robbed strangers on street – first victim slashed with meat cleaver causing laceration to chin and wrist – second victim knocked unconscious by co-offender Exceptionally high level of alcohol dependence – 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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
18.	Amohanga (27) Rai (19/20) (2005) 155 A Crim R 202 [2005] NSWCCA 249	s.98 AR with GBH Sched: s.98 s.98 AR with GBH s.94	PG	10y NPP 6y 10y NPP 6y 8y NPP 6y <u>Total:</u> 11y NPP 7y	Crown AA 12y NPP 8y 6m 11y NPP 8y 8y NPP 6y <u>Total:</u> 13y NPP 10y	Iron bar Tyre lever	Significant (breach of bail) Significant	Victim engaged 2 prostitutes, one of whom was A's girlfriend – agreement that they would steal victim's wallet – victim bashed, crushing his skull and leaving him in a coma and permanently disabled – worst offence Second offence for R committed on bail – robbed electronics shop A: dysfunctional upbringing – average intelligence – heroin – some rehabilitation R: poor literacy and low intellect – drug use – psychosis – some rehabilitation
19.	Mason (18) [2005] NSWCCA 403	s.98 AR with wounding Sched: s.97 s.98	PG (15%)	8y 6m NPP 6y	AD	Knife		SNPP 7 years Robbed taxi driver and locked him in boot – robbed male bystander investigating noise from taxi – wounded victim on face with knife – robbed 17y male and assaulted him with beer bottle – all offences committed in company Aboriginal with traumatic childhood - intoxicated
20.	Misiepo (22) [2005] NSWCCA 405	s.98 AR with wounding Sched: Possess cannabis Receiving	PG (25%)	4y 9m NPP 3y	Crown AD (errors established but exercise of discretion)	Gun	Extensive	SNPP 7 years Three men robbed male acquaintance at pre-arranged meeting – victim shot in arm / chest – leader of group Disturbed and traumatic childhood – 2 young children
21.	Swan [2006] NSWCCA 47	s.98 AR with wounding s.95	PG (25%)	7y NPP 2y FT 12m <u>Total</u> 7y 6m NPP 2y 6m	AA 5y NPP 2y FT 12m <u>Total:</u> 5y 6m NPP 2y 6m	carving knife	short but relevant – included assault and robbery	SNPP 7 years Entered yard of male acquaintance and held knife to throat demanding money – kicked victim in buttocks and left when victim refused – returned with co-offenders several hours later and threatened victim with carving knife – stabbed victim in shoulder as he was attempting to escape – degree of planning – objective gravity high – motivated by belief victim had sexually abused offender and others Suffering cerebral palsy, intellectual deficits and schizophrenia – history of neglect and abuse – gave himself up to police

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
22.	Truong (21) [2006] NSWCCA 71	s.98 Att AR with GBH s.98 Armed rob with wounding 3 x s.97 Sched: Take and use conveyance	PG (25%)	FT 4y 7y NPP 4y FT 3y <u>Total</u> 8y 9m NPP 5y 9m	AA FT 4y 6y 6m NPP 3y 6m FT 3y <u>Total</u> 8y 3m NPP 5y 3m	Knife, Metal pole	Minor – breached bond	SNPP 7 years With co-offender committed robberies upon taxi drivers – cut victim with knife during struggle – hit victim with metal pole. Heroin addiction – supportive family - assistance to police – protective custody
23.	Sternbeck (37) [2006] NSWCCA 132	s.98 AR with GBH s.97(1) Sched: 2 x s.95 s.97(1)	PG (25%)	9y NPP 6y 6y 6m NPP 3y <u>Total</u> 11y NPP 7y 6m	AD	Knife Double barrelled shotgun Gun	Priors – not as serious	SNPP 7 years Robbed retail shops - female shop assistants threatened and tied up – one victim seriously injured by assault - under influence of crystal methylamphetamine
24.	McArthur (27) [2006] NSWCCA 200	s.98 AR with GBH	PG	12y NPP 9y	AD	Metal bar	Breached parole	SNPP 7 years Struck male stranger at station with metal bar – catastrophic injuries – stole phone
25.	AS (14) (2006) 165 A Crim R 100 [2006] NSWCCA 309	s.98 Att AR with GBH s.94 Mal wound Assault police Sched: 7 offences	PG	3y 6m NPP 2y FT 6m FT 9m FT 3m <u>Total:</u> 4y 3m NPP 2y 9m	Crown AA 4y NPP 3y 1y 4m NPP 1y 1y 4m NPP 1y FT 3m <u>Total:</u> 4y 9m NPP 3y 9m	knife	Breached bail	SNPP 7 years Attempted to rob 64y female – stabbed victim in back causing permanent paralysis – grabbed handbag of second victim in separate incident – stabbed male shop manager in back during argument

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
26.	Henry (35) [2007] NSWCCA 90	s.98 Att AR with wounding Assault Possess offensive implement	PG	4y NPP 3y FT 4m FT 4m (concurrent)	Crown AA 6y 9m NPP 4y 6m FT 4m FT 4m (concurrent)	Knife	Breached parole for AR – other offences on record	SNPP 7 years Robbed jewellery shop – stabbed owner in cheek – mid range offence History of mental illness – under influence of ice and amphetamines
27.	Witchard (18) [2007] NSWCCA 167	s.98 Att AR with wounding s.97(1) Rob in company 3 summary offences	PG (15% on appeal)	3y 6m NPP 18m 3y 6m NPP 18m (concurrent)	Crown AA 4y NPP 2y FT 18m <u>Total:</u> 5y NPP 3y	bottle	Breached bail for assault on girlfriend	SNPP 7 years With co-offenders assaulted males waiting at train station in early hours of morning – punched victims – hit one victim over head with bottle Aboriginal – drug and alcohol problems
28.	Krishna (2007) 178 A Crim R 220 [2007] NSWCCA 318	s.98 AR with wounding	VG	9y 4m NPP 7y	AD	Meat cleaver		SNPP 7 years In company robbed male in hotel room – victim lured to room by female – planned offence – struck on head with meat cleaver by offender
29.	Drew (42) [2007] NSWCCA 331	s.98 AR with wounding 3 x s.97(1) AR s.97(1) AR	VG	6y NPP 4y 4y NPP 3y 4y 9m NPP 2y 3m <u>Total:</u> 8y NPP 5y 6m	Crown AD	Knife	record did not commence until 34y old	SNPP 7 years Waited at bus stops then robbed bus drivers using knife – on one occasion driver cut on arm – robbed female shop assistant – offences committed over 6 days Drug addiction and related criminal record did not commence until later in life – suffering long term depression
30.	PB (17) (2008) 184 A Crim R 552 [2008] NSWCCA 109	s.98 AR with wounding	PG (15% on appeal)	4y NPP 22m	Crown AA 6y 9m NPP 3y 3m	Knife	On bond for robbery offences.	SNPP 7 years Victim sitting in vehicle – offender and friends passing by – victim told group not to bump vehicle – argument ensued – offender punched and stabbed victim with knife Aboriginal with difficult childhood

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
31.	TM (14) [2008] NSWCCA 158	s.98 Att AR with wounding s.111(3) AOABH Assault	PG (25%)	8y NPP 4y 6m FT 4y FT 2y FT 18m (concurrent)	AA 6y 9m NPP 3y 6m FT 3y 6m FT 2y FT 18m (concurrent)	Knife – meat cleaver	On bail for rob in company – otherwise limited record	SNPP 7 years Entered house with elder brother – woman and five children threatened with knife and meat cleaver – mother and one son injured
32.	JJM (17) [2008] NSWCCA 180	s.98 Att AR with wounding 2 x s.97(1) Sched: 4 Rob Offences	PG (35% combined discount)	7y NPP 3y 3m 7d FT 2y <u>Total:</u> 8y NPP 4y 3m 7y	AD	Machete	Breached bonds	SNPP 7 years Member of group of youths involved in robberies – assaulted and robbed young men searching for golf balls on golf course – robbed take away shop and pizza shop armed with machete – attempted to rob convenience store armed with machete – staff member suffered serious laceration of hand severing fingers NPP structured to expire at 21st birthday
33.	JW (15) (2010) 199 A Crim R 486 [2010] NSWCCA 49 Co offender: JC	s.98 AR with wounding s.98 Att AR with wounding	PG	2y suspended 80h CSO	Crown AA 2y 2y <u>Total</u> 2y 7m (suspended)	Knife	Nil	Group of three youths assaulted and robbed male outside train station – threatened with knife – money stolen – fingers cut in defensive action – shortly later pursued two men down street to house – one male cut finger in struggle – nothing stolen – lesser participant Intellectual disabilities – trouble free in 18m since arrest – good prospects of rehabilitation – remorse – difficult childhood with domestic violence and sexual abuse
34.	JC (15) [2010] NSWCCA 67 Co-offender: JW	s.98 AR with wounding s.98 Att AR with wounding	PG	3y NPP 1y 3m 3y 6m NPP 1y 3m <u>Total</u> 3y 6m NPP 1y 6m	AA 3y NPP 1y 3m 3y NPP 1y 3m (concurrent)	Knife	Nil	Group of three youths assaulted and robbed male outside train station – threatened with knife – money stolen – fingers cut in defensive action – shortly later pursued two men down street to house – one male cut finger in struggle – nothing stolen No disparity in sentences due to different subjective circumstances – SJ erred in applying SNPP to juvenile – some evidence of post-sentence 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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
35.	Paterson (21) [2010] NSWCCA 233	s.98 Att AR with wounding s.97(1) Sched: BES	PG	5y NPP 2y 4y NPP 3y <u>Total:</u> 6y NPP 3y	Crown AD	Knife	Breached conditional liberty - lengthy	SNPP 7 years Broke into bottle shop and stole alcohol – robbed bakery armed with knife – attempted to rob taxi driver armed with knife – victim cut on arm during struggle Prospects of rehabilitation – drug addiction
36.	Santo (34) [2011] NSWCCA 156	s.98 AR with wounding s.33(1)(a)	VG	13y NPP 9y 9m 13y NPP 9y 9m (concurrent)	AD	Smashed bottle	Includes robbery – breached bail for robbery in company offence	SNPP 7 years Female went home with 84y male victim met in bar – offered massage – smashed bottle of vodka and stabbed victim in neck and back and smothered with pillow – stole property and left – above mid-range
37.	Holohan (39) [2012] NSWCCA 105	s.98 AR with GBH Att s.94 s.112(2)	PG (50% combined)	16y 9m NPP 11y 6m 5y 3m NPP 4y 3y 6m NPP 2y 6m <u>Total:</u> 21y NPP 15y 9m	AA 16y 9m NPP 11y 6m 2y 8m NPP 2y 3y 6m NPP 2y 6m <u>Total:</u> 19y 6m NPP 14y 3m	Brick	“Appalling” - extensive history of dishonesty and violence. On parole.	SNPP 7 years Approached female and struck female victim twice to face and head with brick rendering her unconscious - thinking victim dead dragged body to park - took purse, mobile phone and bag - victim suffered significant and ongoing brain injury, fractures to skull and right hand - worst case category - gratuitous violence - attack brutal with some planning - intention beyond money for drugs - also intended to cause pain and injury. Difficult upbringing - homeless from 12y - alcohol and drug abuse - co-operation with police consistent with genuine regret

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
38.	Qian (19) [2012] NSWCCA 283	s.98 AR with GBH s.98 AR with wounding s.97(1) s.97(1) s.86(2) Sched: 3 x dishonesty offences	PG (25%)	6y 6m NPP 4y 8y NPP 4y 4y 6m NPP 3y 4y NPP 2y 3m 4y 6m NPP 3y <u>Total:</u> 12y NPP 8y	AD	Knife	Nil	SNPP 7 years Offences committed over two months - with co-offender robbed male walking home at night – stabbed in stomach – struggles over knife and backpack - with second co-offender robbed brothel armed with knife – female and male customer forced into bedroom – bound by hands and feet and taped over eyes and mouth – female struck to head – credit card stolen and money removed from ATM – male struck to head with hammer – stole car and personal belongings - with same co-offender robbed convenience store – tied up female and placed tape over eyes – airway obstructed - all offences planned Chinese national - drug user and under malign influence of older male at time of offences – evidence of rehabilitation when arrested two years later - remorse
39.	Gavin (53) [2013] NSWCCA 99	s.98 AR with GBH	PG (25%)	9y NPP 6y	AD	Iron bar and knife	Lengthy including violence - on bail.	SNPP 7 years Robbed housemate of \$15, ATM card and mobile phone – entered victim's room and woke him up – demanded money and when victim refused, struck him with bar and stabbed him once in foot – tied victim up and left him drifting in and out of consciousness – victim suffered wounds, fractured ribs and fingers. Dysfunctional upbringing – drug use.
40.	Sio (21) [2013] NSWSC 1872 Adamson J	s.98 AR with wounding	VG	10y NPP 7y 6m		Knife	Minor – insignificant	SNPP 7 years Mastermind of planned robbery of brothel – armed co-offender with knife and waited in car – considerable planning – above mid-range

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
41.	AH (17) DH (16) [2014] NSWCCA 326	s.98 AR with GBH Sched: AR Enter dwelling s.98 AR with GBH Sched: AR Enter dwelling	PG (15%) PG (25%)	3y 6m NPP 1y 9m 3y 9m NPP 1y 10m 15d	Crown AD	Baseball bat Knife	Limited Significant – breached bond	Home invasion by four offenders – AH stood look out – DH held knife to throats of female occupant – male occupant severely assaulted by another offender causing life threatening injuries Bosnian brothers – exposed to ethnically based civil war as children – father and AH suffered PTSD – exceptional evidence of rehabilitation
42.	Mun (19) [2015] NSWCCA 234	s.98 AR with wounding	PG (25%)	7y NPP 4y	AD	Claw hammer		SNPP 7 years Robbed cafe proprietor of \$7000 – struck victim twice to head with claw hammer – waited in cafe for 4 hours for victim to leave café with money - significant planning – brought hammer and gloves to café – sent text messages to a co-offender who was not apprehended - mid-range. Difficult upbringing – drug abuse from young age
43.	Dennis (38) [2015] NSWCCA 297	s.98 AR with GBH	VG	11y NPP 8y 3m	AD	Used device like a scalpel	Significant - violence, escape lawful custody, assault, aggravated robbery – breached parole.	SNPP 7 years Robbed passenger on a public train by cutting his throat - attacked victim from behind, held victim's hair with one hand - cut left scar of about 16cm in length - above mid-range objective seriousness - vicious life-threatening and, to an extent, premeditated attack and robbery on public transport. Difficult background – drug abuse.
44.	Martin (19) [2016] NSWCCA 273	s.98 AR with wounding 2 x summary offences	PG (25%)	6y NPP 4y	AD	Threat to stab	Violence – breached bond and parole	SNPP 7 years 62y male invited stranger to home for drink – sustained assault on victim with threat to stab – stole car and wallet – car subsequently crashed Drug addiction
45.	Hiron (28) [2018] NSWCCA 10	s.98 Att AR with wounding	PG (10%)	6y 3m NPP 4y 8m	AD	Knife	AOABH, assault, larceny, obtain benefit by deception	SNPP 7 years Demanded victim's car keys – in struggle victim received wound to his throat from knife offender had in his hand – argument with victim over drug deal – offender carried knife to the scene and expected to use it - mid-range objective seriousness. Drug abuse

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
46.	Calhoun [2018] NSWCCA 150	s.98 Att AR with GBH s.33A s.86(3) Sched: 6 offences	PG (50% plea and assist)	<u>Indicative</u> 6y NPP 4y 6m 7y NPP 5y 3m 6y <u>Aggregate:</u> 9y NPP 6y 9m	AD	Gun	extensive record for serious violence and firearms offences – breached parole	SNPP 7 years Approached victim leaving nightclub with co-offender – victim shot in ankle and torso – aware firearm loaded and could be used – degree of planning (s.98 offence) – on another occasion organised co-offenders to confront second victim at pub – believed victim reneged on deal – victim shot in leg, detained in car and threatened - \$2000 stolen – principal offender
47.	Chami [2019] NSWCCA 63	s.98 AR with GBH s.97(2) Att s.97(2)	PG (15%)	<u>Indicative</u> 7y 3m NPP 5y 1m 5y 6m 5y 2m <u>Aggregate</u> 11y NPP 7y 9m	AD	Gun		SNPP 7 years Arrangements made for victims to meet offender to discuss sale of mobile phone – at meeting co-offender entered car of three victims and threatened with small gun – obtained phone and money from one victim – second victim had no money – third victim shot by co-offender three times – offender unaware of gun until produced in car
48.	GAR [2021] NSWCCA 264	s.98 AR with wounding	VG	17y NPP 10y 7m	AD	Not stated	Extensive including AR – released to parole 7 months earlier	SNPP 7 years (2000) Carefully planned robbery of hotel in company with another male – victim confronted by two armed men, threatened and bound – gratuitous violence - \$220,000 cash and \$75,000 property stolen – principal offender Absence of remorse On appeal – leave to appeal 17 years out of time granted – appeal dismissed

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	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	INVOLVEMENT & SUMMARY
49.	Eden (20) [2023] NSWCCA 31	s.98 AR with wounding	PG (25%)	3y 9m NPP 2y	AD	Knife	Possess drug, custody knife public place, possess weapon.	SNPP 7 years In car by victim - victim had been requested to collect accused by accused's girlfriend - threatened victim with knife demanding money – cut victim's shoulder - some degree of planning. Strong subjective case -significant deprivation - <i>Bugmy</i> applied – poor executive function and consequent impulsivity - leading prosocial life - good prospects rehabilitation - special circumstances: age, first custodial sentence. CCA: Fresh evidence report of Foetal Alcohol Spectrum Disorder (FASD) not admitted on appeal - not clear would have necessarily resulted in lesser sentence.

Last updated: February 2023