Inflict GBH With Intent to Cause GBH

s.33 (NSW) *Crimes Act*

s 33 Maliciously inflict GBH with intent to cause GBH

Maximum penalty: **25 years**

Standard non-parole period: **7 years (offences committed on or after 1.2.2003)**

Substituted: **15.2.2008 (see separate tables)**

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
1.	**Anderson** NSWCCA 9.4.1991	GBH / GBH	PG	FT 15m	AD	hammer	nil	Struck wife of 30 years about head with hammer causing permanent injury - long history of marital discord Victim had psychiatric problems
2.	**Ramsey** (32) NSWCCA 30.5.1991	GBH / GBH	VG	2y PD	Crown AA MT 3y AT 1y	assault	nil	After victim accidentally spilt offender's drink offender punched victim to ground & kicked him causing permanent brain damage
3.	**Loughnan** (18) NSWCCA 14.7.1992	GBH / GBH	VG	MT 9y AT 3y	AD	assault	extensive record	Gaol bashing by 2 prisoners who punched, kicked & stomped on victim's head – premeditated – victim suffered severe injuries now a vegetable
4.	**Wiki** (19y 8m) NSWCCA 13.9.1993	GBH / GBH	PG	MT 6m AT 12m	Crown AA MT 3y AT 1y	assault	record of violence including AOABH	Victim annoying female patrons at hotel - kicked, punched and stomped on offender - offender returned later and assaulted victim in similar fashion - suffered fractured jaw, nose and rib as well as massive soft tissue injuries
5.	**Anderson** NSWCCA 19.10.1994	2 x GBH / GBH Sched: 2 x receiving	PG	MT 7y 6m AT 2y 6m	AD	knives	Extensive - on bail for Form 2 matters, and parole.	Both victim had stolen from offender – offender went to their house and stabbed them during altercation – one victim stabbed three times – second victim stabbed once, narrowly missing heart.

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

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6.	**Constantin** (29) NSWCCA 2.6.1995 **Kontorinakis** (40) NSWCCA 2.6.1995	GBH / GBH Assault GBH / GBH	PG PG	MT 2y 4m AT 8m MT 15m AT 5m	Crown AA MT 3y 9m AT 1y 3m Crown AA MT 2y 3m AT 9m	physical assault	Nil Nil	Both offenders contracted to assault male victim - K engaged C and another to carry out the attack – victim suffered broken arm and multiple facial injuries - C assaulted victim's wife when she came to assist husband K – some assistance to authorities
7.	**Phillips** (20) NSWCCA 2.8.1995	GBH / GBH	PG	2y PD	Crown AA 3y PD	assault	Nil	Offender wrongly advised victim had sexually assaulted sister 5 years earlier - in company chased victim and kicked him in head causing serious and on-going cognitive problems. Outstanding character.
8.	**Henderson** (49) NSWCCA 5.11.1997	GBH / GBH	PG	MT 8y AT 3y	AD	assault	not long	Punched and kicked victim, stomping forcefully on head outside hotel in early hours of morning - permanent brain damage. Aboriginal male with good subjective features
9.	**Wilson** NSWCCA 18.12.1997	GBH / GBH	VG	MT 14y AT 4y 8m	AD	iron bar		Broke into female victim's house and bashed her with iron bar - acting for victim's ex-boyfriend.
10.	**Walsh** (46) NSWCCA 5.3.1998	GBH / GBH	PG	MT 5y AT 1y 8m	AA MT 3y 6m AT 2y	car	nil	Deliberately drove car at estranged wife – spontaneous decision – caused multiple lacerations and fractures. Suffering depression - drove at pole attempting to kill self.
11.	**McKnoulty** NSWCCA 20.5.1998	GBH / GBH	VG	MT 13y 6m AT 4y 6m	AD	assault		Assaulted female friend in car causing permanent damage. Conviction after second trial
12.	**Ferguson** (23) **Williams** (31) [1999] NSWCCA 214	GBH / GBH GBH / GBH	PG PG	MT 4y 6m AT 3y 6m MT 4y AT 3y	Crown AD	assault	minor minor	Brawl in hotel - victim assaulted MF - resulted in frenzied attack over 15 mins - stomping, kicking, jumping, use of pool cue and bar stool - victim fortunate to live Aboriginal males with deprived backgrounds.

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13.	**Ryan** (29) (2000) 110 A Crim R 262 [2000] NSWCCA 5	GBH / GBH	VG	MT 3y AT 3y	AD	wheel lock	includes violence	Female struck victim on head with wheel lock - believed victim had stolen drugs and money from her.
14.	**Luck** (36) **Amadio** (39) [2000] NSWCCA 119	GBH / GBH Assault GBH / GBH	VG VG	MT 5y AT 2y 6m FT 3m <u>Total</u>: 5y 3m NPP 2y 9m MT 4y AT 2y 6m	AD AD	assault	AOABH nil	Assaulted intoxicated male victim in toilets of Club, stomping and kicking head - onlooker grabbed by throat when attempted to intervene - victim suffered permanent brain damage. Offender suffers brain damage from alcohol abuse.
15.	**LRS** (17) [2001] NSWCCA 338	GBH / GBH	PG	3y GBB	Crown AA 2y suspended	knife	nil	Attacked by 43y male acquaintance in victim's home - tied to bed and sexually assaulted - responded by nearly severing victim's penis. Previously sexually assaulted - remorse - early admissions - immature and simple.
16.	**McNamara** (31) [2002] NSWCCA 318	GBH / GBH	PG (20% on appeal)	4y NPP 1y 9m	AA 2y 9m NPP 1y 6m	assault	no history of violence - minor dishonesty offences	Attacked male stranger in bar - bit him on finger and on nose to the bone – required skin graft and further surgery Voluntarily surrendered to police - evidence of rehabilitation from alcohol addiction - effect of incarceration on child – remorse
17.	**Shenton** [2003] NSWCCA 346	GBH / GBH	PG	5y NPP 3y	AD	Bashing		Broke into victim's home – bashed victim with large metal torch causing fractures including injuries to skull.
18.	**Pitt** (25) [2003] NSWCCA 408	GBH/GBH	VG	8y NPP 5y	AD	Bashing	Lengthy record for violence	During brawl victim kicked on ground, rock dropped on head and kicked in head – fractured skull and brain damage – four offenders Troubled and deprived background

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19.	**Henness** (29) [2004] NSWCCA 50	GBH / GBH	VG	8y NPP 6y	AA (to allow for 2 days PSC) Sentence confirmed.	Assault with glass	Firearm offences – breached bond and bail	Struck acquaintance in face with glass at nightclub – caused loss of right eye and permanent scarring – vicious, unprovoked attack. Depression
20.	**Duncan** (17) **Perre** (17) [2004] NSWCCA 431	GBH / GBH Affray GBH/GBH Affray	VG VG	16y NPP 12y FT 2y (concurrent) 16y NPP 12y FT 2y (concurrent)	AA 13y NPP 9y FT 2y (concurrent) 13y NPP 9y FT 2y (concurrent)	Pole, machete and wheel brace	Breached parole – relatively minor nil	Fight between two groups of youths armed with weapons – victim separated from group and attacked by multiple assailants – permanent disability
21.	**Buddle** [2005] NSWCCA 82	GBH / GBH Sched: AOABH	PG (10%)	6y 6m NPP 4y 3m	AA 5y NPP 3y	Baseball bat	No criminal conviction for 20y	Pursued drunken males who had attempted to enter house and assaulted son – one male severely bashed with baseball bat – assault continued while victim unconscious Strong subjective case – sole carer for 2 sons – extensive community contribution – psychologically vulnerable at time of offence
22.	**Olsen** (29) [2005] NSWCCA 243	GBH / GBH AOABH	VG	9y NPP 5y 6m FT 18m (concurrent)	AD	Assault	Record includes assault offences – breached bail	Sustained attack on 3y son of de facto – victim suffering extensive injuries including bite marks and dehydration – assaulted de facto when she attempted to seek medical assistance
23.	**Zoef** [2005] NSWCCA 268	GBH / GBH Unauth poss shortened firearm Unauth poss silencer	VG PG PG	10y NPP 7y 6m FT 3y FT 12m (concurrent)	AD	Firearm offences		Shot girlfriend's ex-partner as he climbed through window into house with sawn-off rifle – excessive response to threat – caused paraplegia Genuine remorse

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24.	**Chisari** (27) [2006] NSWCCA 19	GBH / GBH	VG	2y 8m NPP 14m	Crown AA 5y NPP 2y 6m	Car	Minor	**SNPP 7 years** During argument over parked car deliberately drove at and struck police officer with front of car – accelerated and drove off - fractured right arm with permanent damage - financial stress due to loss of work - below mid-range Uncharacteristic aberration.
25.	**Heron** [2006] NSWCCA 215	GBH / GBH	VG	7y 6m NPP 5y 6m	AA 7y NPP 4y	Glass	AOABH, assault	**SNPP 7 years** Dispute at hotel party regarding offender's behaviour towards victim's son during football match – struggle resulted in glass being struck against victim's face - victim suffered gaping wound to face and under throat – no long-term effects - spontaneous attack - below mid-range Professional rugby league player – qualified and committed youth worker widely respected in community – good character – special circumstances
26.	**JPW** (15) [2006] NSWCCA 294	GBH / to prevent apprehension	VG	GBB 3y	Crown AD	Kicking		**SNPP 7 years** Friend caught shoplifting – offender kicked security guard in head to prevent friend being apprehended - victim suffered severe facial and cranial injuries resulting in serious post traumatic disorder and substantial disabilities - not premeditated - below mid-range
27.	**Jenkins** (19) [2006] NSWCCA 412	GBH / GBH	VG	5y NPP 2y 6m	Crown AD	Glass	Nil	**SNPP 7 years** Female– pushed glass into right eye of victim during confrontation in night club – no provocation - use of weapon - victim had 3 operations to eye to try to prevent retinal detachment - significant chance victim might require removal of eye itself with risk of sympathetic injury to left eye occurring in future - facial scarring - unlikely to be able to continue as a serving police officer - somewhat below mid-range Difficult childhood – depression – remorse

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28.	**Vragovic** (69) [2007] NSWCCA 46	GBH / GBH	VG	12y NPP 8y	AD	Exhaust pipe and shortened firearm	Maliciously inflict GBH with intent – breached bail for same offence different victim	**SNPP 7 years** Attack upon estranged 57y wife – broke into victim's home at night – beat victim to face and body – victim suffered serious on-going injuries - above mid-range - Cold calculated and brutal attack upon a helpless woman in her own home Serving sentence for prior assault on victim's new partner.
29.	**Jione** [2007] NSWCCA 170	GBH / GBH	PG (25%)	8y NPP 5y	Crown AA 12y NPP 8y	Assault	Breach AVO, assault	**SNPP 7 years** Punched victim numerous times on two occasions while drinking at hotel – victim reduced to vegetative state - above mid-range and in category of high seriousness
30.	**Mitchell** (21) **Gallagher** (20) (2007) 177 A Crim R 94 [2007] NSWCCA 296	GBH / GBH GBH / GBH	PG (15% on appeal) PG (15% on appeal)	8y NPP 4y 5y 2m NPP 2y 6m	Crown AA 12y NPP 7y 9y 4m NPP 5y	Assault	Dangerous driving, assault, on bond. Nil	**SNPP 7 years** M believed he had been sexually assaulted by victim when he was 10 years old (fact undetermined at sentence) – under heavy influence of alcohol and drugs offenders came across victim on street – viciously attacked victim, punching and kicking victim to ground - victim suffered serious brain injury and reduced to vegetative state – confined to wheelchair
31.	**Kennedy** (17) (2008) 181 A Crim R 185 [2008] NSWCCA 21	GBH / GBH	PG (25%)	7y NPP 4y	AA 6y NPP 3y	Assault	Breached AVO	**SNPP 7 years** Unprovoked assault on de facto causing multiple facial fractures – intoxicated – voluntary surrender to police – suffering mental illness affecting culpability - victim suffered severe physical injuries – facial fractures, fractures to her nasal bones, fractures of the mandibles and dental injuries – required surgery - in hospital for 2 weeks - lower end of mid-range. Aboriginal male with deprived childhood

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32.	**Moore** (56) [2008] NSWCCA 143	GBH / GBH	PG (10%)	9y NPP 6y	AD	Poker	Minor	**SNPP 7 years** During argument struck wife to head with metal poker – element of provocation where wife first struck offender with poker – victim suffered fracture to skull and subsequent haemorrhage - severe and permanent brain damage - unable to live independently - mid-range. Genuine remorse
33.	**Thewlis** [2008] NSWCCA 176	GBH / GBH Mal wound / GBH	PG (25%)	8y NPP 4y FT 3y Total: 9y NPP 5y	AA 6y NPP 3y FT 3y Total: 7y NPP 4y	Knife		**SNPP 7 years** Repeatedly stabbed estranged de facto and new partner - female victim suffered life threatening injuries requiring immediate surgery and leaving permanent scarring - mid-range. Immediately sought help from neighbours and called ambulance – stayed until ambulance and police arrived - immediate post-crime ameliorating conduct entitled appellant to mitigation of sentence but did not affect assessment of objective gravity.
34.	**Quach** [2008] NSWCCA 284	GBH / GBH	VG	3y NPP 2y	Conviction AD	Foot - single kick	Nil	**SNPP 7 years** During soccer match scuffle ensued – kicked linesman once to face as he intervened - suffered facial injuries including fractured eye socket, nose, broken teeth, fracture of bones above left upper teeth and retinal injuries - required 3 metal plates.
35.	**Boney** (37) [2008] NSWCCA 313	GBH / GBH Detain for advantage AOABH	PG (25%)	6y NPP 3y FT 18m FT 9m (all concurrent)	Crown AA 7y 6m NPP 4y 6m FT 18m FT 9m Total: 8y NPP 5y	knife	substantial – included personal violence offences	**SNPP 7 years** Carried former de facto wife to offender's cousin house for the night, slapping her on face – next day stabbed first victim's brother in abdomen and across chest when he came to house – mid range offence

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36.	**S K** (35) [2009] NSWCCA 21	GBH / GBH	PG	12y NPP 8y	AD	Push into train	Mid-range PCA	**SNPP 7 years** Pushed stranger off train platform under oncoming train – catastrophic injuries – victim had asked offender not to spit or cough – intoxicated. Protective custody
37.	**Quin** (20) [2009] NSWCCA 16	GBH / GBH	VG	5y NPP 2y 6m	Crown AA 5y 6m NPP 3y 2m	Assault	Priors including assault – breached conditional liberty	**SNPP 7 years** Led assault on single male by group of males on street late at night - victim suffered fracture to jaw in two places, fracture to left eye socket and nasal fracture - required molar teeth removed and 3 sets of screws inserted with plate in jaw - below mid-range Dysfunctional background – alcohol abuse and anger management problems – good prospects of rehabilitation
38.	**Sproates** (24) [2009] NSWCCA 29	GBH / GBH	PG (25%)	12y NPP 8y	AD	Shooting	Not extensive	**SNPP 7 years** Verbal altercation in hotel with victim – approached victim outside hotel and threatened with gun – fired 3 shots hitting victim in stomach – severe injuries - bullet entered left abdomen, passed through liver and stomach and lodged near spine in pancreas - required major surgery– carrying gun for self-protection – intoxicated and under influence of ice - upper end of range. Aboriginal male with difficult background – drug / alcohol abuse – remorse – voluntarily surrendered to police – reasonable prospects of rehabilitation
39.	**Gersbach** (26) [2009] NSWCCA 132	GBH / GBH	VG	9y 4m NPP 6y 6m	AD	Cricket bat	Limited - assault, malicious damage	**SNPP 7 years** Unprovoked assault - struck victim in head with cricket bat followed by two more blows to head when victim lying on ground – arising out of dispute from previous evening – with other companions at time - victim suffered severe head injuries – likely to affect planning and short term memory - mid-range objective seriousness.

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40.	**Rosenburg** [2009] NSWCCA 148	GBH / GBH	VG	5y NPP 3y 9m	AD	Metal bar	Significant, including assault	**SNPP 7 years** Struck male victim a number of times with metal bar following dispute – victim suffered less serious injury than other GBH cases – no surgery was required - offence below mid-range objective seriousness but closer to middle range than bottom range
41.	**Dixon** (23) **A.Pearce** (23) **J. Pearce** (20) [2009] NSWCCA 179	GBH / GBH Affray Sched: 2 x assault GBH / GBH Affray AOABH Sched: 2 x assault GBH / GBH Affray Sched: 2 x assault	PG	3y NPP 2y Periodic Detention 12m (concurrent) 5y 3m NPP 2y FT 12m FT 12m <u>Total</u>: 5y 6m NPP 2y 3m 5y 3m NPP 2y 12m (concurrent)	Crown AD Crown AA 6y 3m NPP 3y FT 12m FT 12m <u>Total</u>: 6y 6m NPP 2y 3m Crown AA 6y 3m NPP 3y 12m (concurrent)	Bottles	Minor Priors including assault and affray assault	**SNPP 7 years** Involved in fight at night club – Dixon punched owner and security guard in face – A.Pearce struck two persons in face and neck area with broken bottles – J.Pearce threw and struck several person with broken bottles – stamped on head of person – one person badly injured by bottle thrown by J.Pearce – co-offenders liable by joint criminal enterprise Unfortunate childhood and drug abuse

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42.	**Connelly** (38) [2009] NSWCCA 293	GBH / GBH Assault Intimidation Sched: Assault	PG (15%)	5y 11m 12d NPP 3y 5m 16d FT 12m FT 6m (concurrent)	AD	Baseball bat	Minor – breached two bonds	**SNPP 7 years** During argument outside offender's house over debt pushed male victim causing pram to tip over – chased by victim who threw beer bottle – chased victim in car and struck him on head with baseball bat – pushed female victim causing pram to tip over and baby to strike head – threatened to assault and burn down house of female victim - male victim lost eye and multiple orbital and facial fractures - substantial on-going physical and emotional harm. Mild intellectual disability – significant brain injury – alcohol and drug addiction
43.	**Chen** (49) [2011] NSWCCA 85	GBH / GBH	PG (15%)	5y NPP 3y	AD	Knife	Nil	**SNPP 7 years** In company with others, assaulted victim who acted as immigration agent over contractual dispute – used knife to stab victim in chest area – victim received severe laceration to right wrist and superficial wounds to chest, abdomen and forearm - continued to kick and punch victim while prostrate and bleeding heavily on floor, - planned offence – committed in company - just within mid-range Good character.
44.	**Mendes** (22) [2012] NSWCCA 103	2 x GBH / GBH Sched: 3 offences	PG (25%)	10y NPP 7y	AA Same effective sentence	Knife	nil	**SNPP 7 years** During argument with girlfriend at hotel grabbed her around neck, slapped her, dragged her towards balcony and threatened to throw her off - stabbed her in chest, neck and wrist - chased victim through hotel – stabbed male friend of victim twice in neck and back – continued to assault girlfriend and stabbed her in arm while attempting to stab in neck – under influence of cannabis and methylamphetamine Drug use commenced after sexual abuse as a child by older teenagers – good prospects of rehabilitation – genuine remorse

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45.	**Tan** (32) [2013] NSWCCA 262	GBH / GBH AOABH	VG	10y NPP 6y FT 3y Total: 11y NPP 7y	AD	Punch and steel implement	Nil in Australia – drug offences in Malaysia	**SNPP 7 years** Assaulted female partner on two separate occasions – on first occasion punched to head and kicked to back – threatened with meat cleaver – choked with belt around neck – on second occasion punched victim to face several times and hit with steel implement causing injury to eye – greater than mid-range Malaysian male in Australia on visa
46.	**Dulihanty** (42) [2013] NSWCCA 275	GBH / GBH	VG	8y NPP 5y	AD	'weapon'	Nil	**SNPP 7 years** Arranged for sex worker to attend unoccupied premises - attacked victim from behind with weapon inflicting grievous bodily harm – several blows inflicted – no apparent motive – fled premises leaving victim behind – weapon not recovered
47.	**Sims** (24 at offence) [2019] NSWCCA 232	GBH / GBH Att s.61J Sched: Act of indecency	PG (12%)	Indicative: 13y 2m 7y 8m Aggregate: 15y NPP 10y	AD	fist	nil prior – sexual offence of 15y girl subsequent	(1996) soldier told lies to 19y female met in club about knowing her boyfriend – left club with victim then strike her to face causing serious injury and unconsciousness – moved victim to dark embankment and attempted to sexually assault her – attempt only due to early ejaculation – left victim on embankment – arrested after DNA match many years later – some degree of planning on the night - martial arts trained - above mid-range seriousness No evidence of rehabilitation – some evidence of mental illness

Last Updated: Sept 2019

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