Malicious Wounding / Maliciously Inflict GBH In Company

s.35(2) (NSW) *Crimes Act*

s 35(2) Malicious wounding or maliciously inflict GBH in company

Maximum penalty: **10 years**

Commenced: **14.12.2001**

Substituted: **27.9.2007 (see new tables)**

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
1.	**Main** (19) **Turner** (18) [2003] NSWCCA 268	s.35(2) (wound) Sched: 2 offences s.35(2) (wound) Sched 2 offences	PG PG	18m suspended 18m suspended (4m PSC)	Crown AD Crown AD	Wheel brace and screwdrivers	Priors – breached conditional liberty Priors including agg robbery – breached conditional liberty	Attacked older man using wheel brace and screwdrivers – stabbed with screwdriver - intoxicated Evidence of rehabilitation
2.	**Tran** (24) [2004] NSWCCA 366 Co-offender: PAN	s.35(2) (wound) AOABH	PG	2y NPP 12m FT 6m (concurrent)	AA 1y 3m NPP 9m FT 6m (concurrent)	Knife	Nil	Female assaulted male acquaintance at bus stop – argument over money owed to offender's de facto partner – purchased knife and returned - victim injured by knife in continued struggle with offender and de facto Vietnamese male with tragic history
3.	**Pan** (31) [2005] NSWCCA 114 Co-offender: TRAN	s.35(2) (wound)	PG (12%)	21m NPP 12m	AD	Knife	Lengthy – violent offences	Argument with former employee at bus stop – struggle continued some time later after co-offender purchased knife – victim injured by knife – offender struck victim and bit arm

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4.	**Do** (21) [2005] NSWCCA 183	s.35(2) (GBH) Use firearm	PG (25-30%)	2y 6m NPP 12m FT 12m (concurrent)	Crown AA 4y NPP 2y 6m FT 12m (concurrent)	.22 calibre pistol	Nil	Ejected from nightclub – returned in group and threatened security guards with pistol – one guard shot in leg during struggle - intoxicated Out of character – genuine remorse
5.	**Formosa** (27) [2005] NSWCCA 363	s.35(2) (GBH)	PG (20%)	4y NPP 18m	AD	Metal chair and metal pole	Nil	Attended residence of ex-partner in company with two others – with one offender assaulted male occupant with metal chair and pole – serious injuries Delay – offence out of character – some mental issues at time of offence
6.	**Ryan** (24) **McPherson** (23) (2006) 167 A Crim R 241 [2006] NSWCCA 394	s.35(2) (GBH) Sched: 3 offences s.35(2) (GBH)	PG (25%) PG (25%)	20m suspended 20m suspended	Crown AA 15m NPP 6m Crown AA 15m NPP 6m	Cricket bat / knife	Priors Priors including violence	R told by girlfriend she had been sexually harassed by victim night before – attended victim's house and punched him to face – pursued victim armed with knife – both R and M punched, kicked and assaulted victim with cricket bat – threatened with knife – injuries at low end of scale – intoxicated – degree of planning R – instigator – remorse – good prospects of rehabilitation M – record suggests resorts to violence
7.	**GS** (16) [2006] NSWCCA 410	s.35(2)	PG	2y NPP 9m suspended	AD	knife	nil	Unprovoked stabbing of stranger outside house – four wounds – wasted on drugs and alcohol – in company of friend who was unaware of offence – spontaneous offence caused by intoxicated paranoia Difficult childhood – sever physiological problems – drug and alcohol abuse – remorse – evidence of rehabilitation
8.	**Holden** (29) [2008] NSWCCA 100	s.35(2) Sched: AOABH Assault	PG (20%)	4y NPP 2y 6m	AD	Assault	Lengthy record – breached bond	Involved in group assault on male flatmate – attempted to punch victim next day at hotel – later in afternoon forced entry into house with friends and bashed victim – fractures to hand and face – kicking and punching - ringleader

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9.	**Duffy** (22) **Mangan** (20) [2009] NSWCCA 304	s.35(2) s.35(2)	PG (20%) PG (20%)	22m NPP 15m 4y NPP 2y 6m	AD AD	Assault	Nil violence No prior custody	Victim in relationship with M's mother - both offenders assaulted victim after hearing of dispute between victim and M's mother – permanent brain damage – sustained attack with piece of wood – assault started by M as primary offender

Last Updated: March 2019

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