Reckless Wounding

s.35(4) (NSW) *Crimes Act*

s 35 (4) Wound any person reckless as to causing actual bodily harm

Maximum Penalty: **7 years**

Standard non-parole period: **3 years (where conviction entered or guilty plea accepted on or after 1.1.2008)**

Commenced: **27.9.2007**

Wording substituted: **21.6.2012**

	NAME (Age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	WEAPON	RECORD	SUMMARY
1.	**Barker** (59) [2009] NSWCCA 225	s.35(4) s.93G - Possess loaded firearm so as to endanger life Sched: 5 x firearms offences	PG	1y 10m 15d NPP 6m 1y 10m 15d NPP 6m (concurrent)	Crown AD (discretion exercised)	Pipe and gun (used to strike)	nil	**SNPP – 3 years** Angry after being told another man had been running around with wife– entered house and struck sleeping wife with orange pipe – threatened wife with loaded shotgun – tied rope around throat – struck wife with shotgun to head – additional firearms found at residence where offender lived during work week – wounding not part of original plan - victim had limited mobility due to ill health – offender intoxicated and concerned about losing job No history of violence – out of character – genuine remorse
2.	**OH, Hyunwook** (28) [2010] NSWCCA 148	s.35(4)	PG (25%)	2y 6m NPP 1y 6m	AD	Knife	Nil	**SNPP – 3 years** Argument with victim who shared house – chased victim through house with knife – sustained attack - stabbed victim in stomach – serious injury requiring surgery – spontaneous offence
3.	**Zreika** (32) [2012] NSWCCA 44	s.35(4)	PG	1y 11m NPP 1y 3m	AD	Beer bottle	Violence, BE&S, Dishonesty	**SNPP – 3 years** Stabbed victim number of times with broken beer bottle after heated argument – victim was neighbour of offender's friend but did not previously know offender

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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4.	**Golding** (34) [2012] NSWCCA 76	s.35(4) Sched: Assault	PG (25%)	3y NPP 2y 3m	AD	Knife	Record including violence	**SNPP – 3 years** Fisherman from Darwin visiting friend – became involved in confrontation with group of men outside house – collected knife from inside – accidently stabbed 16y girl who sought to intervene – intoxicated - mid range offence
5.	**Tweeddale** (20 at sentence) [2012] NSWCCA 99	s.35(4)	PG (25%)	4y 6m NPP 3y	AA 4y 2m NPP 2y 8m		significant violence	**SNPP – 3 years** Assaulted boyfriend of female acquaintance with broken bottle – deliberately broke bottle holding it to victim's throat and striking him on head several times during struggle – extreme violence – high end of range of seriousness Difficult childhood Conviction for offence of benefit witness quashed on appeal
6.	**Melbom** (32) [2013] NSWCCA 210	s.35(4) s.33B(1)(b)	PG (20%)	4y NPP 2y 10m 15d FT 2y 4m Total: 4y 6m NPP 3y 4m 15d	AD	Knife	Record including knife offences	**SNPP – 3 years** Staying with victims in victims' house – stabbed male in chest during lengthy argument over phone – threatened female with knife when she threatened to call police Long history of substance abuse
7.	**Leung** (33) [2014] NSWCCA 44	s.35(4) Possess proh weapon Sched: Assault	PG	2y 1m NPP 15m FT 9m Total: 2y 4m NPP 18m	AA 12m NPP 8m 13d (immed release) 1y Bond	Extendable baton	nil	**SNPP – 3 years** Bus driver approached offender illegally parked and requested he move car – offender exited car and assaulted victim using extendable baton Autism spectrum disorder and anxiety disorder - remorse – good character
8.	**Simpson** [2015] NSWCCA 60	s.35(4) AOABH	VG	4y NPP 2y 9m FT 18m (concurrent)	AD	Knife	breached parole – record not extensive but included use of weapon	**SNPP – 3 years** Victim assaulted by several men including offender and left area – offender pursued victim in car and assaulted him with knife Mental health issues

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9.	**Osborne** (35) [2015] NSWCCA 260	s.35(4)	PG (25%)	3y NPP 2y	AD	Glass	Nil	**SNPP – 3 years** Struck male in face with two beer glasses at hotel following verbal altercation. Good character – employed.
10.	**Skelton** (21) [2015] NSWCCA 320	s.35(4)	PG (20%)	3y NPP 18m	AA 2y 6m NPP 13m	Knife	Nil	**SNPP – 3 years** "Blacked out" and stabbed victim in bar in stomach area – did not know victim Mental health - schizophrenia – mental health issues since aged 7y – drug abuse - student – living with parents
11.	**Mundine** (19-20) [2017] NSWCCA 97	s.35(4) Common assault s.166 AOABH Contravene AVO	PG (25%)	Indicative 2y 3m 9m 2y 3m 9m Agg 4y 6m NPP 1y 6m	AA 2y 3m NPP 3m FT 6m 2y NPP 1y 3m FT 6m Total: 3y 6m NPP 1y 6m	Knife	'shocking' – breached bond an AVD	**SNPP – 3 years** Became angry when pregnant partner wanted to go to hospital – pulled her to ground by collar of shirt (common assault) – mid range - 11mths later armed self with knife twice during argument with partner – kicked her to head causing unconsciousness (AOABH) – mid range - left house and stabbed male stranger in shoulder (reckless wounding) – below mid-range Aboriginal male with difficult upbringing – substance induced psychosis at time of later two offences - remorse
12.	**Canzius** (59) [2017] NSWCCA 177	s.35(4)	PG (10%)	2y 8m NPP 1y 4m	AD	Assault and punch	Lengthy record including assault	**SNPP – 3 years** During scuffle at block of units picked up victim and threw him down stairs causing wound to head and knee and fractured rib – punched victim several times on ground – history of animosity – below mid-range Mental health issues effecting imprisonment

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13.	**Gordon** (50) [2018] NSWCCA 54	s.35(4) s.319 Sched: 4 offences	PG (15% on appeal) (25% on appeal)	Indicative 3y 7m NPP 2y 8m 2y 9m NPP 2y Agg 4y 11m NPP 3y 7m	AA Indicative 2y 9m 2y 7m Agg 4y 6m 2y 9m	golf club	moderate – include domestic violence	**SNPP – 4 years** Punched female partner and struck her with small TV – caused significant injury to arm with golf club – seven months later argued over car and detained victim in house overnight – forced to escape through smashed window – later telephone victim from custody seeking to have her drop charges – assault mid- to upper mid-range – justice offence low end of mid-range Subsequent evidence suggests good prospects of rehabilitation
14.	**Mansfield** (40) [2019] NSWCCA 266	s.35(4) Sched: Intimidate Breach of bond (common assault)	PG (25%)	4y 3m NPP 2y 6m 7m (concurrent)	AA 3y NPP 2y	Punch	breached bond – another bond imposed in 2007	**SNPP – 4 years** Became angry and punched employer to head several times after being given 4 weeks' notice to leave – threatened victim and family Suffering significant mental health issues – difficult childhood including sexual abuse, early substance abuse and exposure to domestic violence On appeal: offence not above mid-range – manifestly excessive in view of nature of wound, insignificant record and mental illness
15.	**Kliendienst** (33) [2020] NSWCCA 98	s.35(4) s.33B(1)	PG (not stated)	Indicative: 3y 2m NPP 2y 1y 10m Aggregate: 4 y NPP 2y 3m y	AA Indicative: 3y NPP 2y 1y 6m Aggregate 3y 9m NPP 2y 1m	Schooner glass – not an element of s.35(4) offence – "offensive weapon" in s.33B(1) offence	Assault, assault police, failure to leave premises, damage property.	**SNPP – 4 years** Hit victim's head with schooner glass resulting in 7-9 centimetre laceration on back of head and laceration to left side – assault following breakdown of friendship with victim. Complex mental health history including symptoms ADHD, Autism Spectrum Disorder, drug induced psychosis, depression. CCA: Moral culpability reduced due to violent upbringing – failure to refer to *Bugmy* principles

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16.	**Dabboussi** (28 at sentence) [2020] NSWCCA 111	s.61I s.35(4) Sched: s.61I Assault Hinder police	PG (5%) PG (25%)	2y 10m NPP 1y 8m 2y 3m NPP 1y 4m <u>Total</u>: 2y 10m NPP 1y 10m	Crown AA 2y 10m NPP 1y 5m 2y 3m NPP 1y 4m <u>Total</u>: 3y 10m NPP 2y 5m	knife	minor – breached conditional liberty	**SNPP 3 years** During paid session with sex worker inserted sex toy into victim's vagina three times and anus once against express lack of consent by victim – drug affected – offence committed in victim's home – victim called on friend to assist – below mid-range One year later involved in road rage incident – in confrontation with occupants of car pushed one occupant to the ground and stabbed second occupant in thigh – towards mid-range Long standing drug addiction – limited prospects of rehabilitation – lack of remorse On appeal – error in degree of concurrence
17.	**Downes** (29) [2020] NSWCCA 167	s.35(4) Affray AOABH	PG (25%)	<u>Indicative</u>: 2y NPP 1y 4m 2y 9m <u>Aggregate</u> 3y NPP 2y	AD	Pool cue	2012 offence for affray dealt with by fine	**SNPP 3 years** Affray involving two groups inside bar area of hotel – alcohol fuelled violence – punched, kicked and stomped on the head of several males – punched female to face causing bruising – struck male to face with pool cue causing laceration requiring stitches Genuine remorse – prior good character except for minor affray matter – alcohol problem On appeal: no parity issue
18.	**Prince** [2020] NSWCCA 268	s.35(4) Sched: s.99(1)	PG (25%)	2y 6m NPP 2y 6m	AD	Sharp implement	Breached parole	**SNPP 3 years** In early hours of morning conveyed by taxi to home of female victim – upon entry demanded money to pay taxi from male occupant – threatened female victim with sharp implement – during struggle stabbed victim in hand and arm and smashed window – spontaneous and unplanned offence – committed for financial gain – just below mid-range Traumatic childhood – cognitive defects – drug user from early age – *<u>Bugmy</u>* applied – special circumstances found in youth and need for supervision

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19.	**Moiler** (29) [2021] NSWCCA 73	s.35(4) s.58 Resist police Sched: Damage property	PG (25%)	4y NPP 2y FT 6m <u>Total</u>: 4y 1m NPP 2y 1m	AA 3y NPP 1y 7m FT 6m <u>Total</u>: 3y 1m NPP 1y 8m	Fire extinguish-er	Reckless wounding, resist police, damage property, possess drugs. On parole.	**SNPP 3 years** Exchanged punches with victim following argument due to offender screaming in his own room - struck victim to head multiple times with fire extinguisher – victim suffered laceration to ear - victim resided in motel unit next door to offender. Schizophrenia; substance abuse disorder. CCA: Sentence manifestly excessive; wound was significant cut to ear but consequence not of greatest seriousness; spontaneous offence; schizophrenia - drugs played causative role due to schizophrenia - complex inter-relationship of cause and effect and exacerbation between mental illness and drug abuse.
20.	**Craft** (19) [2021] NSWCCA 131	s.35(4) s.59 Breach CCO	PG (25%)	3y NPP 1y 9m 9m 9m <u>Aggregate</u>: 3y 3m NPP 2y	AD	Knife	AOABH, violence. On conditional liberty.	**SNPP 3 years** During argument on street, stabbed female victim to chest area after punching and headbutting victim – offender and victim knew each other from being homeless on streets – intoxicated. Homeless – deprived background – cognitive and mental health impairments – drug abuse.
21.	**Perry** [2021] NSWCCA 244	s.35(4)	PG (25%)	4y NPP 2y	AA 3y NPP 1y 6m	Broken chair leg	Armed with intent, driving. On CCO and ICO.	**SNPP 3 years** Struck victim to head with broken chair leg that had screws and broken pieces of wood protruding – assisted victim by giving him something to stop bleeding and apologised - below mid-range - no provocation - spontaneous – under influence of drugs - misapprehension that victim spoke to his girlfriend inappropriately. Deprived background – *Bugmy* principles applied - special circumstances: drug addiction, mental condition. CCA: sentence manifestly excessive.

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22.	**Anderson** (30) [2021] NSWCCA 187	s.35(4)	VG (25% for offer)	2y 6m NPP 1y 3m	AD		Less serious offences committed when much younger	**SNPP 3 years** During altercation with group of males on street cut victim twice to head with piece of broken glass – revenge for accidental striking by victim of offender's partner – victim had fallen to ground – offence towards mid-range Genuine remorse – reasonable prospects will not re-offend – *Bugmy* principles applied
23.	**Zheng** (47) [2023] NSWCCA 64	s.35(4)	VG (trial for s.33)	2y 6m NPP 10m	AA 1y 10m ICO	Knife	Nil	**SNPP 3 years** Female – during argument stabbed husband in back once with small kitchen knife – no premeditation or planning – thought cover was on knife – in presence of young child – in home of victim – use of weapon – domestic violence offence Low intellectual functioning and major depressive disorder – immediate remorse – hard worker and good mother – out of character – good prospects of rehabilitation – 58 days custody and onerous bail conditions On appeal: manifestly excessive
24.	**Narayan** [2026] NSWCCA 94	s.35(4) s.166 Cert: s.93IB(1) Custody of knife in public place	PG (25%)	Indicative: 2y 6m NPP 1y 6m 12m Aggregate: 3y NPP 2y	AD	Knife	Lengthy including similar offences	**SNPP 3 years** Left police station after unsuccessfully attempting to fill out report – approached two male strangers and accused them of speaking about him in their language – threatened with knife and followed as they walked away – victim grabbed arm of offender to prevent stabbing – small cut to forearm – busy public place – unprovoked nature of attack – aggressive use of knife creating substantial risk of more serious injury – 10cm blade – just below mid-range Remorse but little insight – *Bugmy* and *de la Rosa* principles applied – significant childhood disadvantage and mental health issues – prospects of rehabilitation poor and risk of re-offending high – importance of protection of community On appeal: no error in assessment of objective seriousness and not manifestly excessive

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