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 *De Simoni*
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 male - violent home - serious drug and alcohol problems.

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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 male - 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

	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 Total: 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 Total: 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

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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 Total: 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 Total: 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

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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 Aggregate 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 became 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 male - 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 Total: 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

	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 Total 6y NPP 4y	AA 3y 6m NPP 18m FT 2y 8m Total 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 male – borderline intellectually handicapped – evidence of positive rehabilitation' DW – Aboriginal male – 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 male - removed from mother's care at 6 weeks – illiterate and innumerate – poor health – interested in rehabilitation

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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.	**McIlwraith** (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 **Mauai** (20) [2005] NSWCCA 207	s.95 s.95	deprive liberty deprive liberty	PG (25%) PG (30% plea and assist)	9y NPP 6y 6m 9y NPP 6y 6m	AA 6y 8m NPP 4y 6m AA 6y 8m NPP 4y 6m	Nil but since sentenced for AOABH Nil	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
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.

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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) **Tsegay** (18) [2007] NSWCCA 313	s.95 Sched: Carried in stolen conveyance s.95 Sched: Carried in stolen conveyance	corporal violence	PG (25%) PG (25%)	300 hours CSO 300 hours CSO	Crown AD Crown AD	Nil 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.
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

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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

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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 Total 5y 6m NPP 3y 9m	AA 4y 6m NPP 2y 9m FT 9m 18m NPP 12m Total 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	Aggregate 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 male – difficult childhood – substance abuse
59.	**Bonett** [2013] NSWCCA 234	s.95 Take and drive conveyance	deprive liberty	PG (20%)	3y 6m 1y Aggregate 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

	Case (age if known)	Offence	Circumstance of Agg	Plea	Sentence	Appeal	Record	Facts
60.	**J Mitchell** (19) **M Mitchell** (24) [2014] NSWCCA 33	s.95(1) s.95(1) s.97(1) – Rob in company Agg BES s.95(1) s.97(1) – Rob in company Agg BES s.166 Assault	corporal violence corporal violence corporal violence	VG PG (25%) VG PG (25%)	4y NPP 1y 3y NPP 18m 3y NPP 18m 2y NPP 1y <u>Total</u>: 6y NPP 3y 4y NPP 18m 3y NPP 18m 2y NPP 1y FT 6m <u>Total</u>: 4y 9m NPP 2y 3m	Crown AD Crown AD	criminal record – dishonesty offences – breached conditional liberty violence and dishonesty – breached bail	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
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

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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 Total 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

	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	Indicative: 3y 1y 6m 1y Aggregate: 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 *Bugmy* principles
68.	**Harrold** (30) [2021] NSWCCA 88	s.95 Possess firearm	Inflict actual bodily harm	PG (15%)	Indicative: 4y 3m 2y 1m Aggregate: 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%)	Indicative: 2y 20m 15d 2y 9m 2y 7m 15d Aggregate: 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

	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
71.	**Stines** [2025] NSWCCA 11	s.95	Inflict actual bodily harm	PG (not indicated)	5y 3m NPP 3y 4m	AD	BES; aggravated robbery with wounding; robbery. On parole.	Took 61 female victim's bag when walking near train station – pushed victim and struggled - ripped bag from victim's shoulder, victim fell to ground and suffered a blackout - no significant planning. Special circumstances - substance use disorder – PTSD. CCA: Sentence not manifestly excessive

Last updated: February 2025