

Assault (including assault resulting in injury or death)

Offences and maximum penalties

*Common assault	Summary Offences Act 1981, s 9	6 months imprisonment or \$4000 fine
*Assault on police, prison or traffic officer	Summary Offences Act 1981, s 10	6 months imprisonment or \$4000 fine
*Common assault	Crimes Act 1961, s 196	12 months imprisonment
*Assault on a child, or by a male on a female	Crimes Act 1961, s 194	2 years imprisonment
*Aggravated assault	Crimes Act 1961, s 192	3 years imprisonment
*Assault with intent to injure	Crimes Act 1961, s 193	3 years imprisonment
Injuring with intent to injure	Crimes Act 1961, s 189(2)	5 years imprisonment
*Assault with weapon	Crimes Act 1961, s 202C	5 years imprisonment
Wounding with intent to injure	Crimes Act 1961, s 188(2)	7 years imprisonment
Aggravated injury	Crimes Act 1961, s 191(2)	7 years imprisonment
Injuring with intent to cause grievous bodily harm	Crimes Act 1961, s 189(1)	10 years imprisonment
Attempt to murder	Crimes Act 1961, s 173	14 years imprisonment
Wounding with intent to cause grievous bodily harm	Crimes Act 1961, s 188(1)	14 years imprisonment
Aggravated wounding	Crimes Act 1961, s 191(1)	14 years imprisonment
Manslaughter by assault	Crimes Act 1961, s 171	Life imprisonment (Crimes Act 1961, s 177)
*Assaults on specified persons	Various statutory provisions – see Schedule 1	Various

Preventive detention

The following offences are qualifying offences for preventive detention ([Sentencing Act 2002, s 87](#)):

- Manslaughter ([Crimes Act 1961, s 171](#));
- Attempted murder ([Crimes Act 1961, s 173](#));
- Wounding with intent to cause grievous bodily harm ([Crimes Act 1961, s 188\(1\)](#));
- Wounding with intent to injure ([Crimes Act 1961, s 188\(2\)](#));
- Injuring with intent to cause grievous bodily harm ([Crimes Act 1961, s 189\(1\)](#));
- Aggravated wounding ([Crimes Act 1961, s 191\(1\)](#)).

A sentence of preventive detention is a departure from this guideline.

Exclusions from the guideline

Being armed with intent to commit burglary for the purpose of assault ([Crimes Act 1961, s 232\(2\)](#)): Offenders must be sentenced under the generic guideline on [Attempts](#), but with reference to this guideline.

Manslaughter by reason of provocation ([Crimes Act 1961, s 169](#)): This guideline does not apply to cases where a murder charge has been reduced to manslaughter by reason of provocation. See the generic guideline on [Murder: determinate sentences](#).

Manslaughter other than by assault (Crimes Act 1961, ss [167](#), [168](#), [171](#)): See, where appropriate, the offence-based guidelines on [Child neglect](#) and [Driving causing injury or death](#).

Offences committed by way of an attempt: The offences marked with an asterisk may be committed by way of an attempt. If the facts disclose an attempt, offenders must be sentenced under the generic guideline on [Attempts](#), but with reference to this guideline.

Imprisonment threshold

Whether the imprisonment threshold is crossed depends on an assessment of the presence and intensity of band choice and band placement factors. No additional policy guidance can be given.

Summary of key factors

Band choice factors

1. Intended physical injury
2. Scale of offending
3. Victim's public role or vulnerability
4. Premeditation

Band placement factors

Factors 1–4 above, and:

5. Physical injury
6. Victim impact (other than physical injury)
7. Motive

Band choice factors: The presence or absence of these factors, and their relative intensity, determines the sentencing band (see the [Sentencing methodology](#), sentencing bands table and key factors narrative).

Band placement factors: The presence or absence of these factors, and their relative intensity, influences the starting point and final sentence within the appropriate band (see the [Sentencing methodology](#) and key factors narrative).

All aggravating and mitigating factors influence band placement, whether or not they are listed in this guideline (see the generic guidelines on [Aggravating factors](#) and [Mitigating factors](#)).

Sentencing bands

<p style="font-size: 2em; font-weight: bold; text-align: center;">1</p>	<p>No intent to cause injury</p>	<p>Sentence levels before recognition of plea:</p> <ul style="list-style-type: none"> ■ <i>If resulting in no injury or minor injury</i> – up to community workland/or supervision ■ <i>If resulting in moderate injury</i> – up to community detention and/or intensive supervision ■ <i>If resulting in serious injury</i> – from community detention and/or intensive supervision up to 18months imprisonment ■ <i>If resulting in fatal injury</i> – from home detention up to 2 years imprisonment
<p style="font-size: 2em; font-weight: bold; text-align: center;">2</p>	<p>EITHER:</p> <p>(a) Intent to cause injury or acting with reckless disregard as to outcome</p> <p>OR</p> <p>(b) No intent to cause injury accompanied by a combination of some or all of the following factors:</p> <ul style="list-style-type: none"> □ Moderate scale of offending □ A victim who was targeted because of his or her public role or who was vulnerable □ Premeditated offending 	<p>Sentence levels before recognition of plea:</p> <ul style="list-style-type: none"> ■ <i>If resulting in no injury or minor injury</i> – up to community detention and/or intensive supervision ■ <i>If resulting in moderate injury</i> – from community workland/or supervision up to 2 years imprisonment ■ <i>If resulting in serious injury</i> – from 18months imprisonment up to 5years imprisonment ■ <i>If resulting in fatal injury</i> – from 2 years imprisonment up to 6years imprisonment
<p style="font-size: 2em; font-weight: bold; text-align: center;">3</p>	<p>EITHER:</p> <p>(a) Intent to cause grievous bodily harm</p> <p>OR</p> <p>(b) A lower level of intent accompanied by a combination of some or all of the following factors:</p> <ul style="list-style-type: none"> □ High scale of offending □ A victim who was targeted because of his or her public role or who was vulnerable □ Highly premeditated offending 	<p>Sentence levels before recognition of plea:</p> <ul style="list-style-type: none"> ■ <i>If resulting in no injury or minor injury</i> – from community detention and/or intensive supervision up to 2 years imprisonment ■ <i>If resulting in moderate injury</i> – from 2 years imprisonment up to 5years imprisonment ■ <i>If resulting in serious injury</i> – from 5years imprisonment up to 9years imprisonment ■ <i>If resulting in fatal injury</i> – from 6years imprisonment up to 12 years imprisonment

Sentencing bands

4	Intent to kill	<p>Sentence levels before recognition of plea:</p> <ul style="list-style-type: none">■ <i>If resulting in no injury or minor injury – from 2 years imprisonment up to 5 years imprisonment</i>■ <i>If resulting in moderate injury – from 5 years imprisonment up to 9 years imprisonment</i>■ <i>If resulting in serious injury – from 9 years imprisonment up to 12 years imprisonment</i>■ <i>If resulting in fatal injury – n/a</i>
---	----------------	--

■ GENERAL PRINCIPLES:

In most cases, band choice depends on the intended injury. However, option (b) in bands 2 and 3 allows a combination of other factors to override the intended injury.

If option (b) is being used, the requirement that “some or all” band choice factors be present is only a guide, because the relative intensity of those factors is also important. The intensity of one (b) factor will occasionally justify sentencing in a particular band, even if no other (b) factors from that band are present.

Key factors

1. Intended physical injury

Seriousness increases with the level of physical injury the offender intended to cause to victims.

Ordinarily, the offence for which the offender is being sentenced indicates the proved or admitted level of intended injury (for example, an offence of wounding with intent to cause grievous bodily harm, injuring with intent to injure, or attempted murder). In other cases, the judge must assess the offender's intent with reference to all relevant dimensions, including the nature, severity, and duration of the violence, the threatened and actual use of weapons, and the deliberate targeting of vulnerable parts of the body.

For example, no intent to cause injury may be indicated if the offender slapped or shoved the victim and did not use a weapon. An intent to cause grievous bodily harm may be indicated if the offender inflicted a sustained and prolonged assault with a weapon including heavy blows to the head.

However, the presence or absence of any one of the above dimensions may not conclusively indicate a particular level of intent. For example, that an assault was brief or involved only one blow does not necessarily indicate a lesser intent, as much depends on the extent of force used and how it was inflicted.

2. Scale of offending

The scale of offending is indicated by the number of assaults, their frequency, and/or the number of victims. Seriousness increases as the scale of offending on one or more of these dimensions increases. For example, a greater scale of offending is indicated if an offender is being sentenced for repeated assaults against one victim or for a series of one-off assaults against different victims.

3. Victim's public role or vulnerability

Seriousness increases if the offender targeted the victim because of his or her public role, if that role was one requiring greater protection. Such roles include police officers or other emergency services workers (such as ambulance officers or fire fighters), or politicians or government/state employees (such as front-line public servants providing services to the public).

Seriousness also increases if the offender targeted a vulnerable victim. Particular circumstances or characteristics of a victim that may indicate vulnerability include: the victim's age (for example, a child or an elderly person), health, or disability; where the victim is residing (for example, in an isolated rural area); or the existence of a protection order or an order of a similar type in place to protect

the victim from the offender. Depending on the circumstances, a disparity in strength or size between the victim and the offender that rendered the victim less able to defend him or herself may also indicate particular vulnerability.

4. Premeditation

Seriousness increases with the nature and extent of premeditation. Indicators of premeditation include, for example, an offender taking a weapon to the scene expecting to use it, arranging for co-offenders to participate in the assault, or seeking out the victim for the purposes of the assault.

5. Physical injury

Within each sentencing band, the primary band placement factor is the seriousness of injury to the victim or victims. An assessment of this factor indicates the sentence range to which other band placement factors apply and influences placement within that range.

Indicators of physical injury are provided in the table below. These indicators are not intended to be definitive or exhaustive.

Indicators of physical injury

Minor injury

Injuries that would have warranted no or minor medical intervention (such as bruises, grazes, welts, or cuts that required no more than minor suturing)

Moderate injury

Injuries that would have warranted more than minor medical intervention, or that could have required hospitalisation for a very short period (for example, an overnight stay)

Serious injury

Injuries that:

- Would have warranted extensive medical intervention, including hospitalisation or lengthy periods of treatment; and/or
- Resulted in significant or long-term disability, or were life-threatening

There are no particular injuries that can always be categorised as minor, moderate, or serious. The injury in each case must be assessed against the level of medical intervention that the injury would have objectively warranted, not the level of medical intervention that was actually received.

The definitions of injury provided in the above table do not strictly align with legal definitions of "injury" (that is, actual bodily harm) or "grievous bodily harm" (that is, really serious bodily harm). If an offender

was convicted of causing a particular level of injury (for example, causing grievous bodily harm under section 188 of the Crimes Act 1961), that injury must still be assessed for sentencing purposes in accordance with the above table. In particular, it should not be assumed that “grievous bodily harm” equates to serious injury as defined above.

If the offender is being sentenced for offending against more than one victim and the assessed level of injury caused to each victim is different, the most serious injury determines the initial sentence range. The injury caused to other victims warrants a higher placement within that range according to the level of injury caused.

6 Victim impact (other than physical injury)

Any impact on the victim other than physical injury increases seriousness and affects band placement.

Non-physical impacts include psychological or emotional harm, and may extend to consequences of the physical injury beyond the injury itself. These consequences may include, for example, the victim being unable to work in his or her chosen career due to the injuries received, or the victim becoming dependent on caregivers.

The impact on those associated with the victim must also be considered (particularly in cases of fatal injury), as well as the impact on those who were present when an assault took place.

7 Motive

Seriousness increases if the assault facilitated the commission of another offence (for example, sexual connection with a child or young person), was an attempt to pervert the course of justice (for example, stopping a person from making a complaint or testifying, or punishing a person for doing so), or was part of vigilante action by the offender (for example, if the offender took the law into their own hands, acted out of revenge, or used stand-over tactics to enforce other obligations).

Seriousness may decrease if the conduct of the victim caused or contributed to the offending – for example, if the victim provoked the offender (whether by an act of violence, other actions, or words), or if the offender acted in self-defence but with a level of force that was excessive in all the circumstances. The level of mitigation depends on the nature and degree of the victim’s conduct and the nature and degree of the offender’s response. This includes whether the conduct was perceived (rather than actual) or exaggerated in the offender’s mind. The timing of the conduct and the nature of any prior relationship between the offender and the victim may also be relevant.

Departure from the guideline

For grounds of departure upwards or downwards from any band, see the generic guideline on [Departure from the guidelines](#).

In cases of attempted murder, a departure downwards from band 4 may be justified if the offending was motivated by compassion for the victim, such as an attempted mercy killing of a terminally ill family member where the offender’s purpose was to end the victim’s suffering.

Schedule 1: Assaults on specified persons

Offences and maximum penalties (ordered by Act and section)

Assault of an animal product officer, official assessor etc.	Animal Products Act 1999, s 133(1)	\$50,000 fine (Animal Products Act 1999, s 133(3))
Assault of an inspector, authorised or accredited person, or their assistant	Biosecurity Act 1993, s 154(a)	12 months imprisonment and/or \$50,000 fine (Biosecurity Act 1993, s 157(3))
Assault of a person exercising or performing a function, power, or duty under the Act	Civil Defence Emergency Management Act 2002, s 98	3 months imprisonment or \$5000 fine (Civil Defence Emergency Management Act 2002, s 104)
Assault of a Tribunal member or any special advisor or officer of the Tribunal	Copyright Act 1996, s 221	\$1000 fine
Assault of a court security officer exercising powers or duties under Act, or their assistant	Courts Security Act 1999, s 30	3 months imprisonment or \$300 fine
Assault of a Judge, Registrar, officer of the Court, juror, or witness, during sitting or attendance in Court, or in going to or returning from Court	Crimes Act 1961, s 401	3 months imprisonment or \$1000 fine
Assault of a customs officer exercising duties, or their assistant	Customs and Excise Act 1996, s 176	12 months imprisonment or \$15,000 fine
Assault of a referee, witness or officer of Tribunal during sitting of Tribunal or while going to or returning from sitting of Tribunal, or of any person in attendance at sitting of Tribunal	Disputes Tribunal Act 1988, s 56(1)	\$1000 fine
Assault of Officer of the Court exercising duties	District Courts Act 1947, s 18	\$300 fine
Assault of member of Authority, Judge, officer of Authority, Registrar of Court, officer of Court, or witness, during sitting or attendance in Authority or Court, or in going to or returning from Authority or Court	Employment Relations Act 2000, s 196(1)	3 months imprisonment or \$5000 fine (Employment Relations Act 2000, s 196(2)(b))
Assault of Forestry Officer or other person exercising duties under Act	Forests Act 1949, s 59	\$2000 fine (Forests Act 1949, s 61)
Assault of member of, adviser to or officer of Tribunal, during sitting of Tribunal, or in going to or returning from sitting	Health Practitioners Competence Assurance Act 2003, Schedule 1, cl (13)(1)	\$10,000 fine
Assault of member of, special adviser to or officer of Tribunal, during sitting of Tribunal, or in going to or returning from sitting	Human Rights Act 1993, s 114(1)	10 days imprisonment or \$1500 fine
Assault at sitting of Tribunal of Judge, prosecutor, Registrar or other officer of Tribunal, barrister or solicitor, witness	International War Crimes Tribunals Act 1995, s 40(1)	3 months imprisonment or \$1000 fine (International War Crimes Tribunals Act 1995, s 40(3))
Assault of Judge, Registrar, or Officer of Court; juror or witness, during sitting of Court, or in going to or returning from Court	Judicature Act 1908, s 56C	3 months imprisonment or \$1000 fine
Assault at sitting of Federal Court of Australia in New Zealand of Judge, Registrar, or Officer of Court; barrister or solicitor or witness	Judicature Act 1908, s 56O	3 months imprisonment or \$1000 fine
Assault of member or officer of Disciplinary Tribunal or witness, during sitting of Tribunal, or in going to or returning from sitting	Lawyers and Conveyancers Act 2006, s 251(1)	\$5000 fine

Assault of ranger or employee of Crown or administering body while exercising powers or duties under Act	Reserves Act 1977, s 98	3 months imprisonment or \$2500 fine (Reserves Act 1977, s 103(a))
Assault of Tenancy Adjudicator or officer of Tribunal or witness, during sitting of Tribunal, or in going to or returning from sitting; or of person in attendance at sitting	Residential Tenancies Act 1986, s 112(1)	\$1000 fine
Assault of member of, special adviser to or officer of Court, during sitting of Court, or in going to or returning from sitting	Resource Management Act 1991, s 282	10 days imprisonment or \$1500 fine
Assault of member of, special adviser to or officer of Complaints and Disciplinary Tribunal, during sitting of Tribunal, or in going to or returning from sitting	Social Workers Registration Act 2003, Schedule 2, cl (13)(1)	\$2000 fine
Assault of special constable or assistant in execution of duty	Summary Proceedings Act 1957, s 192(9)	3 months imprisonment or \$300 fine
Assault of Supreme Court Judge, Registrar, Deputy Registrar or officer of Court, or witness, during sitting of Court, or in going to or returning from sitting	Supreme Court Act 2003, s 35(1)	5 days imprisonment or \$5000 fine (Supreme Court Act 2003, s 35(3))
Assault of ranger or assistant in execution of powers under Act	Wildlife Act 1953, s 40(1)	3 months imprisonment or \$5000 fine (Wildlife Act 1953, s 67D))
Assault of Inspector or other authorised person in execution of duties under Act	Wildlife Act 1953, s 51	\$5000 fine (Wildlife Act 1953, s 67F(1))
Assault of wine officer; assistant or other authorised person acting in the performance or exercise of a function, power, or duty under Act or any wine standards management plan	Wine Act 2003, s 101(1)	\$50,000 fine (Wine Act 2003, s 101(3))