

Grievous Bodily Harm

1. Identify **parties**: X v Y
2. **Jurisdiction**: told/assume events happened in Queensland = Qld law to apply
3. **Offence**: Any person who unlawfully does grievous bodily harm to another is guilty of a crime, and is liable to imprisonment for 14 years: s 320 CC.
4. The offence is concerned with the seriousness of injury or consequences
 1. Assault is not an element of the offence
 2. Victim cannot consent: *Kaporonovski*

5. Elements:

- a. Unlawfully;
 - i. Not authorised, justified or excused by law
- b. Does;
 - i. Intention is not an element, but causation must be proved
 - ii. Directly or negligently
- c. GBH.

6. Definition:

- a. GBH is **defined** in section 1 of the Code:
 - i. GBH means –
 1. The loss of a distinct part or an organ of the body; or
 2. Serious disfigurement; or
 - a. E.g. removal of a substantial portion of the ear lobe causing permanent cosmetic disfigurement but no impairment of bodily function – previously not GBH, overruled by amendments: *Tranby*
 3. Any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;
 - a) 'likely' means a substantial chance, real and not remote: *Boughey*
 - b) 'likely' is not equivalent to probable, it is somewhere below that threshold: *Crossman*
 - c) 'bodily injury' may now include "disease" such as communication of gonorrhoea, because it is likely, if left untreated, to cause permanent injury to health: *Clarence*
 - i. WA definition refers to "serious disease" → see s 317 Qld CC
 - d) Court prepared to extend the meaning to infection by disease & found 'bodily injury' broad enough to include psychiatric injury (i.e. clinical condition of mere emotion – fear, distress or panic): *R v Chan-Fook* [1994] UK
 4. Whether or not treatment is or could have been available.
 - a. Regard is to be had to the nature of the injury itself at the time the harm is done and not to the surrounding circumstances and the availability of medical attention: *Lobston*

7. Causation:

- a. Reasonable foreseeability / 'likely to happen':
 - i. The probability of some injury being received in a way likely to result from the unlawful act: *R v Knutsen* per Mack J at 186
 1. E.g. Victim's retreat from attack does not necessarily break chain of causation: *Royall*
 - ii. Substantial and operating cause test has been applied, but is really only applicable to homicide offences: *Royall*
- b. Criminal negligence: