

<h2 style="margin: 0;">Manslaughter</h2> <h3 style="margin: 0;">Assault - Asphyxiation / Strangulation</h3>
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**Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)**

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	<b>Dodd</b> (1991) 57 A Crim R 349 NSWCCA	Unlawful and dangerous - assault  Assault – general  Strangulation	PG	3y PD	Crown AA FT 3y		Strangled victim after she refused sex - voluntary disclosure of guilt to otherwise unsolved crime after 10 years - had sex with woman's body - affected by drugs
2.	<b>Haynes</b> NSWSC Studdert J 25.3.1994	Diminished responsibility  Victim under 18y  Assault – domestic  Strangulation	PG 2 x Mansl	MT 6y AT 6y		driving offence	Strangled and suffocated daughter and stepdaughter during access after argument with estranged wife - children told him they could not see him again and had been subjected to sexual abuse Obsessive personality and depressive disorder - news from children triggered catastrophic depression
3.	<b>Forsyth</b> (20) NSWSC Finlay J 26.7.1994	Diminished responsibility  Assault – domestic  Strangulation	PG	MT 4y AT 4y			Bashed / strangled girlfriend's mother Brain damage caused by assault - loss of self-control

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4.	<b>Dawney</b> (30) <a href="#">[1999] NSWSC 944</a> Barr J	Substantial Impairment  Victim under 18y  Assault – domestic  Asphyxiation	PG	MT 5y AT 3y		nil	Mother smothered 3y daughter - father of child taking Family Court action to gain custody Violent upbringing - history of sexual abuse - major depressive illness - borderline and schizotypal personality disorder - stresses at time of offence
5.	<b>Nguyen</b> (mid 40s) <a href="#">[1999] NSWCCA 333</a>	Unlawful and dangerous - assault  Assault – domestic  Asphyxiation	PG Mansl  Kidnapping  2 x Mal discharge rifle  Sched: 6 x discharge firearm	MT 6y AT 4y  FT 4y  FT 4y (all concurrent)	AD	nil	Went to ex-girlfriend's house armed with rifle to confront her about money owing - tied up sister and mother - siege developed when police arrived, and gunfire exchanged - mother died from asphyxiation caused by being gagged and rib broken
6.	<b>Duthie</b> (35) <a href="#">[1999] NSWSC 1224</a> Newman J	Diminished responsibility  Assault – general  Strangulation	PG	MT 5y AT 3y		long criminal record	Strangled friend/cell mate in suicide pact - both prisoners on remand and intended to commit suicide – euthanasia Suffering chronic schizophrenia - hepatitis C

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7.	<b>Wang</b> <a href="#">[2000] NSWSC 447</a> Adams J	Unlawful and dangerous – assault  Assault – domestic  Strangulation  Substantial impairment  Poison / drug  Victim under 18y	PG Mansl husband   Mansl daughter	6y NPP 4y   2y (concurrent)		nil	Female strangled husband and poisoned 1y daughter - attempting to kill self when found by police - accidentally killed husband trying to keep him from preventing her killing herself and daughter Severe depressive illness - daughter suffering from cerebral palsy and worried no one would look after her
8.	<b>Graham</b> (20) <a href="#">[2000] NSWSC 1033</a> Whealy J	Unlawful and dangerous - assault  Assault – general  Strangulation	VG (at murder trial)	5y NPP 3y		nil	Became involved in homosexual encounter with stranger in park - pursued by victim when changed mind and attempted to disengage - strangled victim in headlock acting in unreasonable fear for safety Youth - good character - suffering depression - isolated incident
9.	<b>Hawkins</b> (76) <a href="#">[2001] NSWSC 420</a> O'Keefe J	Substantial impairment  Assault – domestic  Strangulation	PG (25%)	3y NPP 2y		nil	Strangled wife of nearly 50 years – suffering depression - adverse reaction to overdose of Zoloft (anti depressive medication) Offence completely out of character - excellent personal and family history - remorse - voluntarily surrendered to police - considered suicide but concerned about effect on daughter
10.	<b>Adamson</b> (19) <a href="#">[2001] NSWSC 499</a> Howie J  (2002) 132 A Crim R 511 <a href="#">[2002] NSWCCA 349</a>	Unlawful and dangerous - assault  Assault – general  Asphyxiation	PG (10%) Mansl  2 x s.61J	11y NPP 7y 6m  8y  Total: 14y NPP 10y 6m	AD	malicious wounding	During party had vaginal and anal intercourse with victim knowing she was not consenting - deliberately placed hand over victim's mouth and nose to prevent her calling out, causing asphyxiation Raised alarm and attempted to resuscitate victim

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11.	<b>Masson</b> (23) <a href="#">[2001] NSWSC 1037</a> Howie J	Unlawful and dangerous - assault  Assault – general  Accessory  Asphyxiation	VG (at murder trial)  Rob with wounding  Larceny	7y 6m NPP 4y 6m  FT 3y 6m  FT 18m (all concurrent)		nil	Went with co-offender to house of 75y female acquaintance to borrow money – co-offender unexpectedly suffocated – continued involvement in robbery out of fear - contemplated unlawful and dangerous act by co-offender during robbery - aware that co-offender had knife Supportive family Offender dealt with for murder
12.	<b>Laupama</b> (29) <a href="#">[2001] NSWSC 1082</a> Bell J	Substantial impairment  Assault - domestic  Victim under 18y  Hanging	PG (just under 10%)  Sched: Kidnapping	12y NPP 8y		assault	Hung de facto wife's 5y daughter in noose from pergola following separation from de facto Major depressive illness with PTSD, social phobia, substance dependence - sexually assaulted as child
13.	<b>Tran</b> (25) <a href="#">[2003] NSWSC 373</a> Greg James J	Unlawful and dangerous – assault  Assault – domestic  Asphyxiation	PG	5y NPP 2y 3m		Nil	Went to bed with partner – both intoxicated – killed partner during night possibly by suffocation – verging on automatism due to intoxication and sleep disorder – vague as to details – disposed of body – lower end of culpability Prior good character – good prospects of rehabilitation – Vietnamese
14.	<b>Hoerler</b> (20) <a href="#">[2003] NSWSC 1187</a> Miles AJ  (2004) 147 A Crim R 520 <a href="#">[2004] NSWCCA 184</a>	Unlawful and dangerous - assault  Assault – domestic  Victim under 18y  Asphyxiation	PG (10%)  Sched: 5 unrelated offences	11y NPP 8y 3m	Crown AA 14y 4m NPP 10y 9m	Mal damage, burglary, assaults	Multiple injuries to 7m son of de facto – punch forced lower teeth into roof of mouth – punch to abdomen – clamp to toes causing breaks – died by asphyxiation or vomit inhalation Protective custody

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15.	<b>Dawes</b> <a href="#">[2004] NSWCCA 363</a>	Substantial impairment  Assault – domestic  Victim under 18y  Asphyxiation	PG	5y GBB	Crown AD	Nil	Mother suffocated 10y autistic son – suffering major depressive illness – unable to obtain proper assistance or intervention – victim very difficult to manage – verbal and physical abuse by husband – illness and death of family members – step father physically abusing daughter – made serious attempt at suicide Depressive illness - remorse and contrition – evidence of rehabilitation with daughter
16.	<b>Hamoui [No.4]</b> (27) <a href="#">[2005] NSWSC 279</a> Kirby J	Provocation  Assault – domestic  Strangulation	VG (at murder trial)	11y NPP 8y		Serious offences involving violence – breached bail	Strangled girlfriend and left body in car –circumstances of killing not clear – victim bound at some stage – intent to kill – gratuitous cruelty – victim’s relationships with other men probable provocation Physically and emotionally abused as a child – no contrition but evidence of rehabilitation in jail – resumed religious studies – engaged to sister of another inmate – possible mental illness
17.	<b>Nicol</b> (86) <a href="#">[2005] NSWSC 547</a> Hulme J	Substantial impairment  Assault – domestic  Asphyxiation	PG	2y NPP 1y Suspended		Nil	Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill Elderly couple with many health problems – depression – genuine attempt at suicide
18.	<b>Massei</b> <a href="#">[2005] NSWSC 1030</a> Adams J  <a href="#">[2006] NSWSC 1298</a> Adams J	Substantial impairment  Assault – domestic  Asphyxiation	PG (25%)	Sentencing initially deferred for 12m  5y 6m NPP 2y 9m 14d			Awoke during night and struck wife with glass ornament – placed sufficient pressure on throat to break bone – doused victim with accelerant and set fire to unit – cause of death probably suffocation or asphyxiation – victim died before burned by fire Suffering chronic and severe depression – Argentinian – separated from wife but on good terms – attempted suicide after lighting fire

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19.	<b>Leach</b> (23) <a href="#">[2007] NSWSC 429</a> Hulme J  (2008) 183 A Crim R 1 <a href="#">[2008] NSWCCA 73</a>	Unlawful and dangerous - assault  Assault – domestic  Victim under 18y  Asphyxiation	PG (10%)  Sched: 2 x AOABH	7y 6m NPP 4y 6m	AA 6y NPP 3y 6m	Nil	Father killed 7w daughter by asphyxiation – sat on unsettled daughter to stop her crying – assault offences constituted by hitting victim on head with hand Intellectually disabled – depressive disorder – frustrated at inability to settle child – good character – remorse – excellent prospects of rehabilitation
20.	<b>Hansell</b> (31) <a href="#">[2007] NSWSC 1136</a> Latham J	Excessive self defence  Assault – domestic  Strangulation	PG (15%)	3y 4m NPP 2y		Nil relevant	After evening of drinking with friends victim turned violent and seriously assaulted offender's brother and wife – offender held victim around neck blocking airway – intent to restrain not choke – element of punishment and recklessness – lower end of scale of seriousness Good character – married with daughter – genuine remorse
21.	<b>Frost</b> <a href="#">[2008] NSWSC 220</a> Barr J	Provocation  Assault – domestic  Strangulation	PG	6y NPP 3y 6m		Nil	Ex-wife visited from Philippines and asked to take youngest daughter back for purpose of prostitution – choked ex-wife – panicked and buried body – left trail suggesting victim returned to Philippines
22.	<b>Paddock</b> (78) <a href="#">[2009] NSWSC 369</a> Rothman J	Substantial impairment  Assault – domestic  Asphyxiation	PG (20%)	6y NPP 4y 3m		Nil	Suffocated 70y partner preparing to move out – attempted to kill self – mid-range – significant impairment Paranoia and early dementia
23.	<b>Nguyen (No.2)</b> (29) <a href="#">[2009] NSWSC 1120</a> Hoeben J	Substantial impairment  Assault – domestic  Victim under 18y  Asphyxiation	VG Manslaughter  Manslaughter	5y NPP 3y  5y NPP 3y  <u>Total</u> 6y NPP 4y		nil	Vietnamese mother killed 5y son and 3y daughter – attempted to kill children with rat poison – suffocated both children then took poison herself – made several unsuccessful attempts at suicide - distressed at husband's infidelity and leaving relationship – severe depression – killings had an element of retribution although primarily altruistic Severe depression Genuine remorse

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24.	<b>Gloginya</b> (41) <a href="#">[2009] NSWSC 1435</a> McCallum J	Unlawful and dangerous  Assault – domestic  Strangulation	PG (10%)	7y 8m NPP 4y 9m		Record for lesser offences of violence – no offences since 1998	Shared residence as carer for 56y male victim – difficult relationship and offender had taken recent steps to end responsibilities – spontaneous offence – Strangled victim although circumstances of killing unclear Suffering brain injury
25.	<b>Cavanagh</b> <a href="#">[2010] NSWSC 670</a> Rothman J	Substantial impairment  Assault – domestic  Strangulation	VG (at murder trial – 25% for offer)	9y NPP 5y		nil	Strangled mother with extension cord - separated from wife and children – victim loaned money to offender to assist with keeping his home for children – home transferred into victim's name – relationship between victim and offender deteriorated – victim suffering from early dementia – offender suggested they move into separate premises – victim responded by telling offender and children to leave - offender attacked victim – brutal killing – approaches but not in worst category Major depressive illness from marriage breakdown and access to children – good character – good rehabilitation prospects – remorse
26.	<b>Mathers</b> <a href="#">[2011] NSWSC 339</a> Hall J	Substantial impairment  Asphyxiation  Assault - domestic	PG	2y suspended sentence		Nil	Assisted partner to commit suicide - ingestion of amitriptyline tablets and final act of suffocation - long relationship of 22 years – victim suffered pain from spinal condition and expressed wish to die in suicide note – participation would not have been discovered but for offender's disclosures to police – suffering depressive illness/adjustment disorder - only motive was to assist victim carry out her express intention - no lengthy period of planning or premeditation - culpability at low end of range of sentences for manslaughter - leniency due to disclosures, confession of guilt and plea of guilty

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27.	<b>Li</b> (22) <a href="#">[2012] NSWSC 477</a> Adamson J	Unlawful and dangerous – assault  Assault – domestic  Asphyxiation	PG (25%) Mansl  Agg Rob  8 x Obtain money by deception	10y 6m NPP 7y  FT 6y  FT 1y  <u>Total</u> 12y NPP 8y 6m		Nil	63y male met with offender for sexual encounters on various occasions – male found at home bound and gagged - died by asphyxiation – offender had beaten and bound victim and left him abandoned – taken ATM cards and made number of withdrawals totalling \$7k – did not check to see whether victim was alright Student from China - support from family.
28.	<b>McCann</b> (67) <a href="#">[2012] NSWSC 1462</a> Barr AJ	Excessive self defence  Assault – domestic  Strangulation	VG (murder trial)	7y NPP 3y 6m		Nil	Strangled boarder staying at offender's home with nylon cord after argument – offender disliked and feared victim – mental issues gave rise to increasingly erratic behaviour by offender Depression / bipolar – prior good character.
29.	<b>Kain</b> <a href="#">[2013] NSWSC 638</a> Adams J	Unlawful and dangerous - assault  Assault - domestic  Strangulation	PG (25%)	6y 9m NPP 4y		Nil	Strangled mother following argument – had lived together – immediately called sister and confessed Offence out of character - offender suffered dementia - state of mind likely to have prevented him truly appreciating likely outcome of his actions - cognitive impairment caused by brain damage caused delay in processing information – dementia caused loss of control in extent of violence inflicted
30.	<b>Salcedo</b> (24) <a href="#">[2014] NSWSC 1099</a> Adams J	Unlawful and dangerous  Assault – domestic  Strangulation	VG (murder trial - 15% for offer)	4y NPP 2y		Record including low level violence – breached suspended sentence and bail	Pulled and twisted scarf on girlfriend as she tried to stop him leaving unit – caused compression of blood vessel but no other injury – moderate force only - very unexpected death – did not intend harm – no argument – victim amphetamines intoxication significantly contributed to death - well within lowest range History of psychotic symptoms and schizophrenia – drug use - reduced moral culpability and general deterrence but increased focus on personal deterrence

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31.	<b>Telemete</b> (30) <a href="#">[2015] NSWSC 909</a> Adams J	Unlawful and dangerous - assault  Assault – general  Asphyxiation  Fight - assault  Accessory	VG (murder trial – 25% for offer)	7y 6m NPP 4y 6m		Trivial offence	Fight between group of Samoan born men and victim and friends after midnight on street – all intoxicated – victim assaulted and kicked by co-offender – offender inflicted some injuries – victim died from positional asphyxiation – offender left scene unaware of seriousness of injuries Genuine remorse – out of character – good prospects of rehabilitation
32.	<b>Duffy (No.7)</b> (34) <a href="#">[2015] NSWSC 1321</a> Davies J  <a href="#">[2017] NSWCCA 77</a>	Unlawful and dangerous - assault  Assault - General  Accessory  Strangulation	VG (murder trial) Mansl  PG (25%) Steal from dwelling house	12y NPP 8y  FT 2y  Total: 12y 8m NPP 8y 8m	AD	Contravening domestic violence restrictions, break and enter, behave offensive manner.	Co-offender strangled female victim with belt around her neck while offender held victim down - victim met co-offender at hotel and invited offender, co-offender and others to parents' place – all parties affected by drug and alcohol – victim killed after sexual involvement with offender – buried in shallow grave at property – guns and other property stolen from property after killing - spontaneous killing - above mid-range of objective seriousness No psychiatric or psychological issues - drug and alcohol abuse – lack of remorse – poor prospects of rehabilitation – continued illicit drug use in custody - supportive family. Co-offender sentenced for murder: <i>Evans</i> <a href="#">[2015] NSWSC 254</a>
33.	<b>Errington</b> (29) <a href="#">[2018] NSWSC 79</a> Adamson J	Unlawful and dangerous - assault  Assault – domestic  Asphyxiation	VG (at murder trial – 35% for offer to plead and assistance)	8y 5m NPP 6y 4m		AR - robbery - firearm offences	Offender and girlfriend came to live with half-brother – offender's ice addiction caused serious tension with victim – following argument offender punched and assaulted victim with cooking pot causing loss of consciousness - hog-tied and gagged victim and left him in unit – returned two hours later to discover victim had died as a result of cardiac arrest or asphyxiation - did not contact police but made arrangements for escape - above mid-range but not in most serious category. Assistance – remorse – drug addiction Note: co-offender acquitted on appeal: [2019] NSWCCA 260

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34.	<b>Dowdle</b> (57) <a href="#">[2018] NSWSC 240</a> Hamill J	Assault – Domestic  Substantial Impairment  Asphyxiation	PG (25%)	3y NPP 2y		PCA	Female - killed adult son severely disabled from car accident – disability caused son to drink and be physically abusive towards mother over long period – received little support - administered sedatives then placed plastic bag over head Suffering major depressive disorder with underlying psychiatric conditions - remorse
35.	<b>Patel</b> (30) <a href="#">[2018] NSWSC 952</a> Lonergan J  <a href="#">[2019] NSWCCA 170</a>	Excessive self- defence  Asphyxiation / strangulation  Assault - general	VG (murder trial - 15% for offer to plead)	9y 4m NPP 7y	AD	Nil	Female - killed female victim – victim to marry offender's friend with whom offender had been sexually involved – in confrontation offender threatened by victim with knife resulting in physical struggle - victim died by strangulation and suffocation – failure by offender to try to resuscitate or call 000 - serious offence of its kind – killing occurred in home of victim. Good prospects rehabilitation - good character - unlikely to reoffend
36.	<b>Hutchison</b> (36) <a href="#">[2019] NSWSC 25</a> Hamill J   Co-offender: WILKINSON	Excessive self- defence  Substantial impairment  Assault – domestic  Asphyxiation	VG (murder trial – 25% for early offer)	9y NPP 5y 6m		Nil	Female – brutal premeditated attack on ex-husband in company of new fiancé - tricked victim into returning home to extract confession that victim had abused or mistreated their two children - victim struck and punched numerous times suffering broken nose - use of electric prod - offence committed in presence of 9y son - victim aspirated food into lungs and died of asphyxia – body placed in boot of car and dumped on roadside - precise roles of each offender not known though evidence shows H was major perpetrator - most serious example of manslaughter due to planning and premeditation of assault - intention to inflict GBH formed after attack while offender in a rage – offender's compromised mental state led to belief actions necessary to protect children due to allegations by children – excessive response - mother kills children's father Chronic mental health issues arising from early child sexual assault – drug abuse – difficult relationships

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37.	<b>Wilkinson</b> (39) <a href="#">[2019] NSWSC 235</a> Hamill J  Co-offender: HUTCHINSON	Assault – domestic  Asphyxiation  Accessory	VG (at murder trial – 25% for offer)	8y NPP 4y 9m		minor offences	Planned assault of partner's ex-husband to obtain confession to his assaults on son – victim lured to his own home where he was assaulted by co-offender – offender involved in assault to lesser extent - injuries and ligature caused asphyxiation – committed in company, in presence of victim's 9y son and in home of victim – panicked when victim died and dumped body by side of dirt road Prior good character – good prospects of rehabilitation - remorse
38.	<b>Davidson (No.3)</b> <a href="#">[2020] NSWSC 58</a> Davies J	Unlawful and dangerous - assault  Assault – General  Strangulation	VG (at murder trial)	11y NPP 7y		serious violent offences	Unable to form intent for murder due to intoxication from drugs – walked into cell of another prisoner during day and closed door – choked victim and assaulted him fracturing several ribs – offender left cell and victim found by another prisoner – sustained assault – no history of animosity - mid range seriousness - offence committed while awaiting sentence for attempt to choke different cell mate - major factor in offending was drugs although underlying mental illness also taken into account – deterrence and community protection significant Commenced drug use as a child – very low intellectual capacity – onerous custodial conditions as a result of offences – institutionalised – special circumstances
39.	<b>Songcuan (No.3)</b> (73) <a href="#">[2023] NSWSC 183</a> Campbell J	Strangulation / choking  Extreme provocation	VG (murder trial – 25% for offer)	7y 6m NPP 6y		Nil	Strangled wife who wrongly believed offender having affair – deceased aggressive and physically violent toward offender – offender felt he “had no choice but to silence her” - put arm around throat and his hand over mouth, applied pressure until deceased calmed down and stopped breathing - attempted to make scene look like a suicide with fake suicide note by deceased. Cumulative provocation over years by deceased, aggressive and controlling towards offender, with physical violence and threatening to kill him if unfaithful - provocation intensifying over short period up to killing, with degree of physical violence in minutes leading up to offender losing immediate self-control. Advanced age – good character.

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40.	<b>Valencia Valencia (No.3)</b> (20) <a href="#">[2023] NSWSC 780</a> Yehia J	Assault – general  Unlawful and dangerous act  Asphyxiation	VG (murder trial – 25% for offer)	10y NPP 6y 9m		nil	Offender paid victim for sexual services in her home – became angry when realised victim transgender and started punching victim – during struggle asphyxiated victim with lamp chord across neck – sought to conceal presence and left unit then country without seeking assistance for victim – spontaneous offence – mid-range Colombian national – remorse - discount for facilitation of administration of justice – difficulties in custody – isolation – good prospects of rehabilitation – unlikely to re-offend
41.	<b>Godfrey</b> (20) <a href="#">[2023] NSWSC 1312</a> Cavanagh J	Assault – general  Strangulation  Excessive self-defence	PG (25%)	4y 9m NPP 2y 10m		Limited history	Killed male victim by applying Brazilian jiu-jitsu hold known as “rear naked choke” – become involved in struggle with another drug addict in hallway outside unit – maintained choke hold beyond reasonable time for self-defence – degree of unreasonableness not extreme or high – persistence of lawful conduct – did not use available weapon Very difficult and traumatic teenage years with violence, drugs and mental health issues reduced moral culpability – remorse – excellent prospects of rehabilitation

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