

Manslaughter

Shooting - General

Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Jennar NSWCCA 4.3.1991	Unlawful and dangerous – shooting Shooting - general	VG Manslaughter Rob with wound	20y NPP 15y (concurrent sentence)	AA MT 7y 7m AT 2y 6m		Killed victim with shotgun - believed he had been ripped off in drug deal Affected by sleeping pills and need for drugs
2.	O'Brien (17) NSWCCA 29.4.1993	Unlawful and dangerous - shooting Juvenile offender Shooting – general	VG Manslaughter Shoot with intent	MT 7y AT 6y	AD	nil	Intoxicated youth had confrontation with victim and others on street - obtained gun from home then used it to facilitate escape from second confrontation
3.	Evers NSWCCA 16.6.1993	Diminished responsibility Shooting - general	VG 5 x mansl	MT 18y AT 7y	AD	nil	Shot five people in units after believing victims called him 'dole bludger'. Not treatable and danger to community - severe personality disorder - close to psychotic - tendency to transient psychosis triggered by stress or drugs (three overlapping disorders)
4.	Gombar (70) NSWSC Wood J 16.6.1994	Diminished responsibility Shooting - general	PG Manslaughter Mal wound	MT 6y AT 5y		nil	Shot 2 friends celebrating his birthday - set fire to unit and shot self - concerned victims had stolen from him and intended to kill him Paranoid psychosis or paranoid personality disorder - resulting in grossly abnormal ideas

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)	Type	Plea	Sentence	Appeal	Record	Facts
5.	Aslan (18) El Kerdi (17) NSWSC Ireland J 1.11.1994 Co-offender: EL BADAR	Unlawful and dangerous – shooting (El-Kerdi) Shooting – general Juvenile offender Accessory (Aslan) Fight - shooting	PG PG	MT 2y AT 3y (assistance,) MT 3y AT 3y (assistance)		Record for violence – breached bail	Drive by shooting at dance party - three shots fired, killing one person and injuring another - retaliation for being forced to leave party after fight. El-Kerdi – shooter - possibly under the influence of Rohypnol at the time - early plea.
6.	El Badar (17) NSWCCA 3.4.1995 Co-offenders: ASLAN EL KERDI	Juvenile offender Shooting – general Accessory Fight - shooting	PG	MT 2y 5m AT 2y 7m (assistance)	AD	Nil	With group of youths had altercation with another group at dance party – left and armed selves with various weapons before returning in offender’s car - five shots fired as drove past party killing victim – offender armed with machete and did not fire gun
7.	Maguire NSWCCA 30.8.1995	Unlawful and dangerous - shooting Shooting – general	VG	MT 8y AT 2y	AD	priors but not for violence	Altercation at club with victim - returned with gun and resumed fight - accidental discharge - intoxicated
8.	Blacklidge (66) NSWCCA 12.12.1995	Diminished responsibility Shooting - general	PG	MT 2y AT 3y	Crown AA MT 4y AT 4y	nil	Wrongly believed neighbour having affair with wife – shot without provocation Degenerative brain disease - paranoid delusions
9.	Edwards NSWSC Dowd J 9.8.1996	Accessory Shooting - general	PG	MT 5y 4m AT 2y 8m		serious although not extensive - no violence	Joint criminal enterprise to rob pizza shop - employee fatally shot by co-offender – offender drove car and remained in car at all times - aware of gun but did not check if loaded Difficult childhood - suffering Hep B - remorse - prospects of rehabilitation – youth – ADD

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)	Type	Plea	Sentence	Appeal	Record	Facts
10.	SAE (15) NSWCCA 3.4.1997	Accessory Juvenile offender Shooting - general	PG	MT 1y 6m AT 2y 3m	AA MT 1y 3m AT 2y 6m (to allow for PSC)	long record - real and continuing risk to community	Acted as look out during robbery - security guard shot
11.	Cooper NSWCCA 24.2.1998	Diminished Responsibility Shooting - general	VG Manslaughter Arson	MT 12y AT 6y	AD		Offences committed at instigation of co-accused's father - burnt down house of rival and executed victim at his home – co-accused acquitted Major depressive dissociative state - elements of brainwashing by co-offender's father
12.	Horan (45) NSWSC Hidden J 20.3.1998	Diminished Responsibility Shooting - general	PG (see facts)	MT 16y AT 6y		old record - irrelevant	Re-determination under s13A (1986) manslaughter, wound with intent to murder, 5 x shoot at police with intent to murder, common assault. Behaving strangely day of offence - police despatched to find offender at request of family - fired at them repeatedly until emptied rifle Paranoid schizophrenic - some rehabilitation but psychiatric state still major concern.
13.	Bessant (25 at offence) NSWSC Smart J 20.5.1998	Unlawful and dangerous - shooting Shooting - general	VG	MT 12y AT 6y (earliest release date 31.5.2001)		bad record - committed AR four days after shooting.	Re-determination under s.13A (1987) contracted to drive past and fire at house to frighten occupants - 5y girl killed - dispute between neighbours Substantial rehabilitation although minor drug matters in gaol - when eligible for release will have spent 15y 10m in gaol
14.	Swindale (57) NSWCCA 22.6.1998	Diminished Responsibility Shooting - general	PG	MT 10y AT 10y	AA MT 9y AT 3y	alcohol related - no serious violence	After argument over generator shot victim in knee and head Concerns raised about dangerousness - organic personality disorder resulting from brain damage caused by accident and alcohol abuse
15.	McEwan (35) NSWSC Barr J 9.7.1998	Provocation Shooting - general	VG	MT 5y AT 3y		no violence	Male drinking heavily with ex-girlfriend and her de facto - de facto began hitting girlfriend - offender obtained gun from house and shot de facto - motivated by fear for ex- girlfriend - no prior animosity or jealousy Tragic childhood, including sexual abuse - highly suicidal in gaol - good rehabilitation in gaol

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)	Type	Plea	Sentence	Appeal	Record	Facts
16.	Dang [1999] NSWCCA 42	Provocation Shooting – general	VG Manslaughter Mal wound	MT 4y 6m AT 1y 6m FT 4y (concurrent)	Crown AD	nil	Female had argument with female victim where victim had produced rifle - two weeks later another argument ensued - offender loaded rifle out of fear victim might use it against her - victim shot during argument - high level of criminality and culpability - also wounded victim's daughter.
17.	Papandrea [1999] NSWSC 978 Studdert J [2000] NSWCCA 499	Unlawful and dangerous - shooting Shooting - general	PG	MT 6y AT 3y	AD	not relevant	Shot acquaintance at close range - circumstances of shooting not clear - both affected by drugs
18.	Oinonen (62) [1999] NSWCCA 310	Unlawful and dangerous - shooting Shooting - general	VG (at murder trial – offer to plead)	MT 8y AT 3y	AA MT 6y AT 3y	not stated	Intoxicated male confronted victim about stolen opals - fired at victim as he ran away
19.	Carroll (25) [2000] NSWSC 410 Greg James J	Diminished responsibility Shooting - general	PG Manslaughter Sched: Assault Possess firearm	12y NPP 7y 6m		nil relevant	Aboriginal male shot male stranger in neck and chest Suffering borderline personality disorder and/or acute depression with suicide attempts - epileptic and drug and alcohol issues
20.	PRFN (15) [2000] NSWCCA 230	Diminished responsibility Juvenile offender Shooting - general	VG	MT 3y AT 3y	AD		Anally raped by victim when 14y old - victim continued to make sexual overtures - devastating effect - became obsessed that victim would hurt baby nephew - killing carefully implemented - lured victim to farm and shot him - element of revenge Post-Traumatic Stress Disorder and major depressive disorder
21.	Do [2001] NSWCCA 19	Criminal negligence Shooting - general	VG	MT 18m AT 18m (PD)	Conviction AD		Spent night in company with victim and friend drinking, smoking heroin and taking rohypnol and playing with victim's shotgun - pointed gun at victim and deliberately pressed after playing with safety catch - thought he had put safety catch back on

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)	Type	Plea	Sentence	Appeal	Record	Facts
22.	Veech (25) [2001] NSWSC 68 Wood CJ at CL	Provocation Shooting – general	VG (at murder trial)	6y 6m NPP 4y 11m		Nil relevant	Shot male friend four times with rifle after loud and aggressive confrontation outside offender's house - shot victim twice while standing and twice while victim helpless on ground - provocation significant and annoying but not extreme - struck victim with rifle butt after shooting him - intent to kill. Youth - unlikely to re-offend in this way - suffering physical effects of motor accident - benefit from counselling
23.	Pennisi (28) [2001] NSWSC 461 Bell J [2001] NSWCCA 326	Unlawful and dangerous - shooting Shooting - general	VG (at murder trial - 25% offer to plea and assist)	9y NPP 6y	AD	nil	Confronted manager of shopping centre with loaded .22 calibre Ruger semi-automatic rifle hoping to force him to drop civil suit - during struggle victim shot in stomach - panicked and fired ten shots at point blank range Voluntarily surrendered to police - depressed at time of offence because of failing business failing – truly remorseful
24.	Stelfox (21) [2001] NSWSC 630 Howie J (2002) 133 A Crim R 288 [2002] NSWCCA 331 Co-offenders: SINGLETON DENTON	Accessory Shooting – general Unlawful and dangerous - shooting	PG (45% plea and assist)	5y NPP 2y 6m	AD	nil relevant	Male shot dead during attack by three men, including offender - pay back for insulting behaviour of victim towards mother of one offender - volunteered to join enterprise - aware of presence of shotgun - joint criminal enterprise to carry out unlawful and dangerous acts - intended to inflict harm with weapons capable of inflicting serious injury Offence out of character - mildly affected by drugs - depressed as result of offence - remorse

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)	Type	Plea	Sentence	Appeal	Record	Facts
25.	Puta (38)	Accessory Shooting - general	VG (at murder trial) 2 x Mansl	<u>Total:</u> 11y NPP 7y	AD	serious drug offence - parole	2 men ambushed by 9 men - both men shot dead - reason for assault or who fired shots unclear - jury satisfied each man was party to assault and knew of presence of guns but were not satisfied they contemplated guns would be used to kill or wound. AP - also sentenced for contempt of court - Albanian - difficult childhood - remarkable behaviour as a prisoner - genuine remorse ZN - Serbian - disturbed and violent upbringing - hard worker supporting four children - currently in stable and supportive marriage - well regarded by prison authorities - seriously injured in incident - suffering low grade depression - rehabilitation - onerous bail conditions RC - Samoan - good upbringing – de facto relationship with two children - remorse - good record as a prisoner - drove ZN to hospital probably saving his life and increasing risk of detection GM - Bosnian - father to 2 children - well regarded by prison authorities RO - stable and supportive childhood - well regarded by prison authorities SN - subsidiary role - impressive character evidence - in very stable marriage with one daughter All offenders dealt with as “high risk” prisoners while on remand
	Nitovic (30)		Contempt	FT 3m (cum)			
			2 x Mansl	<u>Total:</u> 10y NPP 6y	AD	brief record	
	Curry (24)		2 x Mansl	<u>Total:</u> 10y NPP 6y	AD	minor	
	Mackic (37)		2 x Mans	<u>Total:</u> 10y NPP 6y		minor	
	Oldham (31)		2 x Mansl	<u>Total:</u> 10y NPP 6y		assault and firearms offences	
	Nanai (28)		2 x Mansl	<u>Total:</u> 8y 6m NPP 5y	AD	minor assault - on recog	
	[2001] NSWSC 225 Hidden J						
	Puta, Nitovic, Nanai [2002] NSWCCA 495						
	Curry [2002] NSWCCA 109						

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)	Type	Plea	Sentence	Appeal	Record	Facts
26.	Scurr (34) [2001] NSWSC 727 Wood CJ at CL	Substantial Impairment Provocation Shooting – general	VG (at murder trial) Manslaughter Manslaughter	6y NPP 3y 6y NPP 3y <u>Total:</u> 7y 3m NPP 4y 6m		Nil relevant	Deliberate shooting of two men at home of victim M – offender a central witness in fraud case against victim M – over several months threats made against offender, wife and children of victim in fraud case linked to both victims – shot fired into home of offender – frustrated at perceived inactivity of police investigating threats – after death threat against parents made by phone call drove from Katoomba to home of one M in Sydney – fired eight shots at victim M – second victim also shot - both provocation and substantial impairment resulting from depressive illness Excellent subjective case – out of character – extremely good prospects of rehabilitation – minimal prospects of re-offending – remorse – voluntarily surrendered to police - assaulted in custody due to role as witness
27.	Singleton (19) Denton (20) [2001] NSWSC 850 Howie J Co-offender: STELFOX	Accessory Shooting - general	VG (at murder trial)	9y NPP 5y 6m 10y NPP 6y		nil	Male shot dead during attack by four men as pay back for alleged insulting behaviour of victim towards mother of one offender - joint criminal enterprise to threaten and use force if necessary - firing of shotgun an unexpected incident D - instigator of offence - manipulated co-offenders for own purposes.
28.	Griffis (33) [2001] NSWSC 1154 McClellan J	Provocation Shooting - general	PG (30% combined)	7y NPP 5y 3m		minor juvenile offence	Went camping with male friend - during physical argument received burn injuries to face - retrieved gun and shot friend in head - intoxicated and under influence of cannabis Limited intelligence - good work record - problem with alcohol - unlikely to re-offend - remorse - co-operated with police
29.	Barby (48) [2001] NSWSC 1169 O'Keefe J	Shooting - general	VG (at murder trial)	10y NPP 6y		nil relevant	While pig shooting with two male friends shot one friend in chest with shotgun at 2-3 metres - all intoxicated and under influence of cannabis - no provocation or self-defence - so grossly affected by alcohol as to be incapable of forming intent Protective custody

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)	Type	Plea	Sentence	Appeal	Record	Facts
30.	Popovic (29) [2001] NSWSC 1118 O'Keefe J [2003] NSWCCA 103	Provocation Shooting - general	PG Manslaughter VG 9 x mal wound	10y NPP 6y FT 3y <u>Total:</u> 12y NPP 8y	AD	firearms offences	Discharged 2 shots from double barrelled shot gun in busy street - injured 9 bystanders - shot dead male – victim had been harassing and threatening offender over long period of time - offender in relationship with victim's ex-girlfriend - formed intent to kill prior to day of shooting - no fear for safety at time of shooting Some contrition - good prospects of rehabilitation
31.	Nguyen (24) [2002] NSWSC 536 Greg James J	Excessive self defence Shooting - general	PG (25%) Manslaughter s.33 2 x s.33A Sched: Possess unlic firearm	7y NPP 3y 6m FT 3y FT 2y (all concurrent)		Serious offences including armed robbery - On parole	6 persons burst into house where offender visiting armed with clubs and bars intending to rob and inflict injury if required - offender discharged 2 shots from pistol killing one man - pursued men firing more shots - impulsive shooting Vietnamese - prospects of rehabilitation
32.	Cioban (37) [2002] NSWSC 972 Studdert J (2003) 139 A Crim R 265 [2003] NSWCCA 304	Excessive self defence Shooting – general Fight - shooting	VG Manslaughter s.33A	8y NPP 5y FT 18m <u>Total:</u> 9y NPP 6y	AA 6y 6m NPP 4y Conviction AA: s.33A		Involved in fight with group of Fijians on street - punched and kicked - fired shot at victim failing to strike anything - pursued by victim in aggressive manner - backed into door way and shot victim in chest - no premeditation - believed necessary to defend self Romanian - full time carer for disabled son - out of character - good prospects of rehabilitation
33.	Hucker (27) [2002] NSWSC 1068 Howie J	Substantial impairment Shooting - general	PG (15%)	9y 6m NPP 5y		nil	While on a shooting excursion shot good friend under delusional belief he had raped offender's mother, sister and grandmother - tried to get victim's father, who was present, to say victim had shot himself. Paranoid schizophrenic (diagnosed after offence) - protective custody

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)	Type	Plea	Sentence	Appeal	Record	Facts
34.	Diab (19) [2003] NSWSC 978 Shaw J [2005] NSWCCA 64	Unlawful and dangerous - shooting Shooting – general Accessory	PG (25%) Sched: Affray 2 x Firearms offences	9y NPP 6y	AD	Nil	With juvenile co-offender became involved in altercation with 18y male on street - co-offender shot victim at close range in chest – unpremeditated - aware of presence of loaded gun but not aware co-offender would shoot 2 days before threatened male at service station with loaded pistol - prior good character and strong prospects of rehabilitation Co-offender MA sentenced for murder
35.	Forbes (29) [2004] NSWSC 421 Hulme J (2005) 160 A Crim R 1 [2005] NSWCCA 377	<u>Manslaughter One</u> Unlawful and dangerous - stabbing Fight - stabbing Stabbing – general Accessory <u>Manslaughter Two</u> Excessive self defence Shooting – general	PG (12%) Manslaughter VG (at murder trial - 12% for offer to plea) Manslaughter	12y NPP 9y 12y NPP 8y <u>Total:</u> 19y NPP 15y	AA 9y NPP 6y 9m 12y NPP 8y <u>Total:</u> 16y 9m NPP 12y 9m	Lengthy record – breached parole	Involved in fight outside hotel – male stabbed by friend of offender – aware friends intoxicated and had knife – aware risk knife would be used 3 months later took loaded gun to confront male acquaintance over disputed issues – aware victim violent – shot victim in caravan in subsequent struggle – second shot fired while victim on or near floor – intent to kill Low prospects of rehabilitation
36.	Van Oosterum (50) [2004] NSWSC 532 Greg James J	Unlawful and dangerous - shooting Shooting - general	PG (25%)	7y NPP 4y		Nil	Offender's gun discharged during struggle with victim on street – offender confronted victim over alleged relationship with offender's wife – no intent – in possession of gun to ensure victim listened Suffering depression and disordered thinking – emotionally distraught – grave loss of judgment - contrition – co-operation – prior good character – excellent prospects of rehabilitation

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)	Type	Plea	Sentence	Appeal	Record	Facts
37.	Vuni (50) [2005] NSWSC 184 Studdert J [2006] NSWCCA 171	Excessive self defence Shooting - general	VG (at murder trial)	10y NPP 7y 6m	AD	Prior convictions for violence	Shot male acquaintance in head after heated discussion – intent to kill – had been requested by victim to recover stolen weapons and assault men responsible – threatened by victim when failed carry out request – fearful for family present at scene of offence Tongan
38.	Ali (mid 20s) [2005] NSWSC 334 Wood CJ at CL	Excessive self defence Provocation Shooting - general	VG (at murder trial)	5y 8m NPP 2y 8m		Record includes acc to robbery	Victim obsessed with offender's partner - threatened offender and partner a number of times including using a pistol – on night of killing, victim had cocaine and told others he was going 'to get' offender – victim talked with offender then threatened killing of parents – offender shot victim when he was seeking refuge after being disarmed Lebanese background – stable family – no drug use – remorse – involved in community – partner pregnant again
39.	Clifford (19) [2005] NSWSC 521 Adams J (2005) 156 A Crim R 577 [2005] NSWCCA 360	Shooting – general Accessory	VG (at murder trial) Manslaughter Mal cause GBH	6y NPP 3y 3y NPP 1y 8m (concurrent)	Crown AA 7y 6m NPP 4y 6m 3y NPP 1y 8m (concurrent)	On bond for assault	Initiated argument with group of men on street – co-offender came to assistance, shooting two of men - one killed and one permanently injured Subjected to violence by mother's boyfriends – functionally illiterate – drug and alcohol use – substance-induced mental illness – remorse – good prospects for rehabilitation Co-offender AB sentenced for murder
40.	Nguyen (23) [2005] NSWSC 600 Johnson J	Accessory Shooting - general	PG (15%)	6y NPP 4y		Criminal record for traffic offences only	With co-offender stopped male victim in street – victim shot dead by co-offender and second male shot in arm – intended minor assault – not aware of gun – part of longstanding feud Vietnamese

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)	Type	Plea	Sentence	Appeal	Record	Facts
41.	Ahmad (30) [2005] NSWSC 911 Howie J [2006] NSWCCA 177	Excessive self defence Fight - shooting Shooting - general	PG (15%) Manslaughter Mal inflict GBH Mal wound AOABH	9y 4m NPP 6y FT 15m FT 9m FT 9m <u>Total:</u> 10y 4m NPP 7y	AD	Irrelevant	Arguments between factions of Lebanese community – offender broke one victim’s jaw and later shot and killed second victim – intent to kill Lebanese – married with 3 young children – wife sentenced for hindering police – out of character – some hearing loss from bomb blasts in Lebanon – very low IQ – good rehabilitation prospects
42.	Diab (26) [2007] NSWSC 577 Studdert J [2009] NSWCCA 58	Excessive self defence Shooting - general	PG (15%)	10y 3m NPP 7y 9m	AD	Priors – assault	Met with victim in bedroom of house to discuss dispute over drug dealing – victim drew gun but no evidence gun was loaded – shot victim five times – unreasonable response
43.	M.Taufahema (25) [2007] NSWSC 959 Grove J Co-offender: J.TAUFHEMA	Unlawful and dangerous shooting Shooting – general Accessory	PG (18.5%)	11y NPP 7y		Priors including violence – breached parole	Driver of car with four occupants and unlicensed firearms – car stopped by highway patrol police officer – officer shot dead by co-offender – contemplated possibility that someone would discharge firearm without intent to kill or cause GBH Father to young daughter – prospects of rehabilitation – onerous conditions of custody for some period of incarceration – genuine remorse – history of trial and appeals raising element of double jeopardy
44.	Frazer (52) Spencer (37) [2007] NSWSC 1449 Howie J	Accessory Shooting – general Unlawful and dangerous - shooting	VG VG	11y NPP 7y 6m 13y NPP 9y 6m		Old record Extensive record	S organised armed robbery of male flatmate in early hours of morning – F and co-offender participated in robbery - during robbery co-offender shot victim in head – both aware co-offender armed with loaded firearm but did not foresee would be used with required intent Co-offender <i>Wilson</i> sentenced for murder: [2008] NSWSC 238

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)	Type	Plea	Sentence	Appeal	Record	Facts
45.	J.Taufahema [2007] NSWSC 1460 Grove J Co-offender: M.TAUFHEMA	Accessory Shooting – general Unlawful and dangerous - shooting	PG	11y NPP 7y Total: (see facts) 14y NPP 10y			One of four occupants in stolen car – co-offender shot police officer – participated in offence of unauthorised possession of firearms contemplating possible discharge of firearm without required intent Sentenced after earlier trial for related offences of unauthorised use of weapon to prevent lawful apprehension, attempted carjacking and use firearm without authority
46.	Mawson (60) [2007] NSWSC 1473 Adams J	Substantial impairment Shooting - general	PG (25%)	7y NPP 4y		Minor record	Suffering PTSD from war service in Vietnam and brain damage – victim mentally unwell, delusional and dangerous - threatening and abusing offender's family – coincidental meeting resulted in offender shooting victim multiple times – offender's mental condition affected perception of events and ability to control actions Post traumatic stress disorder - remorse
47.	Kari (19) H (16) [2008] NSWSC 993 Hidden J	Unlawful and dangerous - shooting Juvenile offender Shooting – general Accessory	PG (15%) Sched: Home invasion PG (15%) Sched: Rob in co	7y NPP 4y 6m 6y NPP 3y 6m		Dishonesty and drug offences – breached bail and bond Alarming record for violence – breached probation	Part of group of men attending victim's house intending to shut down drug operation – K handed gun by H at last minute – during subsequent struggle K fired shot voluntarily but without intent hitting victim fatally in chest – reluctant participants K – remorse – family support – good prospects of rehabilitation H – prospects of rehabilitation
48.	Maric (32) [2009] NSWSC 346 Harrison J	Substantial impairment Shooting - general	PG (25%)	7y 6m NPP 5y		nil	Shot victim after victim made threats he would harm offender's family if he did not assist with drug cultivation - immediate surrender and confession to police – knew victim from school days - victim well-known as aggressive and intimidating – continuous intimidation from victim - offender began to abuse drugs and suffer from depressive disorder – offender's impairment at high end of spectrum – strong connection between depressed mental state and intimidation from victim Serbian background – wartime memories – no likelihood of reoffending or dangerousness – prior good character – trusted and loyal employee - remorse

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)	Type	Plea	Sentence	Appeal	Record	Facts
49.	SF (16) [2009] NSWSC 1069 Hall J	Criminal negligence Juvenile offender Shooting - general	VG	4y NPP 2y		minor	Gun produced in room full of youths – no dispute or argument – took gun, opened chamber, observing bullet, cocked gun and pointed gun over shoulder at victim – playing with gun and showing off Drug use - remorse
50.	Scott (26 at offences – 37 at sentence) [2010] NSWSC 1026 Hidden J	Accessory Shooting – general Unlawful and dangerous - shooting	PG (15%) Manslaughter Armed Ass w/l rob	11y NPP 8y FT 5y <u>Total:</u> 12y NPP 9y		nil	Accessory before fact – arranged for co-offenders to cause ex-business partner physical harm and steal money – angered by soured business relationship – provided photo of victim and gun but no ammunition – victim shot dead in struggle – paid co-offender \$50,000 after being threatened – reasonable person would have anticipated risk of serious injury – no intent to have victim shot Co-offender Grupe [2007] NSWSC 1303 sentenced for murder
51.	Grant (52) [2010] NSWSC 1048 Barr AJ [2014] NSWCCA 67	Excessive self defence Shooting - general	PG (25%) Manslaughter Dispose of body Cultivate comm qty cannabis Supply cannabis	12y NPP 8y 6m FT 1y 5y 4m NPP 4y FT 2y <u>Total:</u> 14y NPP 10y 6m	AA 10y NPP 7y 6m FT 1y 5y 4m NPP 4y FT 2y <u>Total:</u> 12y NPP 9y 6m	Nil	Grew cannabis plants at farm to meet financial obligations – victim twice stole plants – armed self with loaded pistol for protection – on third occasion victim broke into house and shot twice – disposed of body in nearby national park – 1,549 cannabis plants found on property – 8.14kg dried cannabis – principal in drug offences – below mid-range On appeal sentenced on basis of intent to cause GBH

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)	Type	Plea	Sentence	Appeal	Record	Facts
52.	Aslett (18) [2011] NSWSC 650 Harrison J Co-offender: WA ASLETT	Accessory Shooting – general Unlawful and dangerous - shooting	VG (at murder trial - 25% for offer)	7y NPP 4y 6m		Extensive	Argument with male victim over alleged burning of cousin's car – with cousins confronted victim at his home – offender and cousin armed with machete and baseball bat – aware other cousin armed with handgun – victim offered unarmed fistfight – cousin shot victim in back – all offenders fled scene – joint criminal enterprise to threaten or use unlawful violence - just below mid-range Anger management problems
53.	Forbes (20) [2011] NSWSC 1547 Harrison J Co-offender: SHEDDEN	Accessory Fight - shooting Shooting – general Unlawful and dangerous - shooting	PG (50% plea and assist)	3y NPP 1y 6m		nil	Continuation of earlier confrontation between two groups – offender one of group who gathered and planned assault – co-offender armed with gun – car driving victim and others stopped by group – victim emerged from car armed with weapon and shot by co-offender – offender was not armed but aware co-offenders were – shooting was not intended – no planning – contemplated unlawful and dangerous act was AOABH Protective custody – special circumstances – assistance to authorities - prior good character. Second co-offender sentenced for murder <i>Shedden</i> [2012] NSWSC 854
54.	Aslett (22) [2012] NSWSC 711 Harrison J Co-offender: WA ASLETT	Accessory Shooting – general Unlawful and dangerous - shooting	VG (at murder trial - 25% for offer)	6y 3m NPP 4y		Assault	Argument with male victim over alleged burning of brother's car – with cousin and brother confronted victim at his home – offender and cousin armed with machete and baseball bat – brother armed with handgun – victim offered unarmed fistfight – brother shot victim in back – all offenders fled scene – joint criminal enterprise to threaten or use unlawful violence - while armed just below mid-range Difficult childhood – temper problem – partner with young child

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)	Type	Plea	Sentence	Appeal	Record	Facts
55.	Shedden (31) [2012] NSWSC 759 Fullerton J [2013] NSWCCA 225 Co-offender: FORBES	Unlawful and dangerous - shooting Shooting – general Fight - shooting Accessory	PG (25% plea and assist)	9y NPP 6y 9m	AD	violence	Male shot dead emerging from car that had been lured into suburban street – attack retaliation for earlier assault by victim on several members of group – offender allowed house to be used for planning of assault on victim and was present during attack - aware someone in group had gun – played principal role – high degree of criminality Protective custody - lost all contact with family, wife and children Brother sentenced for murder <i>Shedden</i> [2012] NSWSC 854
56.	Mariam (24) [2012] NSWSC 1023 Latham J [2013] NSWCCA 338	Unlawful and dangerous - shooting Fight - shooting Shooting - general	VG (at murder trial – 15% for offer) Manslaughter Affray	7y 9m NPP 5y 9m FT 3y <u>Total:</u> 8y NPP 6y	Crown AA 12y NPP 8y 9m FT 4y <u>Total:</u> 13y NPP 9y 9m	Old robbery offences	Involved in arranged confrontation between two groups of male youths – fired up to ten cartridges from Ruger pistol at opposing group in car park – bullet struck truck driver across road killing him instantly – first to discharge firearm Married with two children – moderate prospects of rehabilitation
57.	WA (20) (16 at time of offence) [2012] NSWSC 1317 Button J [2014] NSWCCA 92 Co-offender ASLETT ASLETT	Unlawful and dangerous - shooting Juvenile offender Shooting – general	PG (25%)	8y NPP 6y	AD	Agg BES – BES - resist police – stalking - intimidation	Offender's car allegedly set alight by neighbour – offender went with brother and cousin to confront victim – brother and cousin armed with baseball bat and machete – offender armed with loaded rifle – shot number of bullets parallel to ground – one bullet hit victim in back and penetrated heart – gross spontaneous overreaction Dysfunctional upbringing – remorse – rehabilitation prospects.
58.	Booth (38) [2012] NSWSC 1424 Latham J	Excessive self defence Shooting - general	PG (10%) Sched: 5 offences	9y NPP 6y		Assault, malicious damage, possess firearms, possess drug	Shot victim once at close range to chest – dispute over drug dealing – warned by victim's brother that victim was angry and coming to sort offender out – placed loaded shotgun at door – when victim arrived forced entry through half opened door armed with baton – shot fired by offender – serious case of manslaughter Drug use – good rehabilitation prospects

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)	Type	Plea	Sentence	Appeal	Record	Facts
59.	<p>O'Brien (19)</p> <p>McManus (19)</p> <p>Williams (23)</p> <p>[2012] NSWSC 1503 Price J</p>	<p>Unlawful and dangerous act - shooting</p> <p>Shooting - general</p> <p>Accessory</p>	<p>PG (15%) Manslaughter</p> <p>s97(1) att rob in company</p> <p>PG (15%) Manslaughter</p> <p>s97(1) att rob in company</p> <p>PG (15%) Manslaughter</p> <p>s97(1) att rob in company</p>	<p>7y 10m NPP 5y 6m</p> <p>FT 4y 3m (concurrent)</p> <p>7y 8m NPP 5y 4m</p> <p>FT 4y 1m (concurrent)</p> <p>8y 1m NPP 5y 9m</p> <p>FT 4y 6m (concurrent)</p>		<p>Malicious wound, rob in co</p> <p>Rob in co, Driving with drugs</p> <p>Assaults, AOABH, on bond</p>	<p>Victim was part of group who had arranged to supply ecstasy to offenders – offenders planned to rob suppliers and on-sell drugs for significant financial gain - victim died from gunshot wound to head during robbery attempt – gun fired from vehicle driven by offenders - each offender sentenced on basis he did not fire gun and did not know of weapon</p> <p>O'Brien – substance abuse – schizophrenia</p> <p>McManus – substance abuse – good rehabilitation prospects</p> <p>Williams – tragic early life following death of mother – early use of drugs and alcohol – prospects of employment – family support - special circumstances</p>
60.	<p>Nguyen (55)</p> <p>[2013] NSWSC 197 Fullerton J</p> <p>[2013] NSWCCA 195</p> <p>[2016] HCA 17</p>	<p>Excessive self defence</p> <p>Shooting - general</p>	<p>PG (10%) Manslaughter</p> <p>s.33(1)(a)</p> <p>Sched: Firearms offence</p>	<p>9y 5m NPP 7y</p> <p>FT 7y (concurrent)</p>	<p>Crown AA 16y 2m NPP 12y</p> <p>8y 1m NPP 6y</p> <p><u>Total:</u> 17y 2m NPP 13y</p> <p>AD</p>	<p>Supply commercial qty drugs</p>	<p>During police raid of garage of units occupied by offender pursuant to search warrant offender fired shots striking constable in arm - police shots in reply fatally struck constable - offender subject of attempted armed robbery two weeks earlier in same location – unaware victim a police officer but ought reasonably to have foreseen possibility</p> <p>Vietnamese – commenced using drugs after death of first wife - remorse</p>

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
61.	Abbas (18) [2013] NSWSC 1379 Beech-Jones J [2014] NSWCCA 188	Unlawful and dangerous - shooting Shooting - general	PG (25%) Manslaughter AOABH in Company Possess prohibited pistol Sched: Possess ammo	11y NPP 7y FT 2y FT 3m <u>Total:</u> 11y NPP 8y	AD	minor	Attended home of friend carrying prohibited pistol to confront male acquaintance over drug debt – assaulted male to head – pistol discharged killing friend of offender
62.	Smith (21) [2014] NSWSC 1069 Garling J [2015] NSWCCA 193	Excessive self-defence Shooting - general	VG (murder trial - 25% for offer)	12y NPP 9y	AA 10y NPP 7y 6m	Prior record for serious personal violence – breached parole	Shot male friend – after argument during previous evening met up with friend and two others for purpose of fist fight – small element of provocation On appeal: sentencing judge omitted to find offender perceived victim was armed with gun and willing to use it - affected evaluation of unreasonableness of response
63.	Tabbah (22) [2014] NSWSC 1764 Schmidt J [2019] NSWCCA 324	Accessory Shooting - general	VG (murder trial)	14y NPP 10y	AA 13y NPP 8y 6m	Lengthy - rob in company – AOABH	Co-offender shot victim at close range in chest at night through window – joint criminal enterprise to commit robbery – planned offence - remained to assist co-offender knowing he had loaded gun and contemplated gun would be discharged High risk of committing further violent offences – special circumstances Co-offender sentenced for murder On appeal: error in application of aggravating factors
64.	W Basanovic (21) [2016] NSWSC 292 Davies J [2018] NSWCCA 246 Co-offender: BASANOVIC	Excessive self defence Shooting – general	VG (at murder trial) Manslaughter s.33	11y 6m NPP 8y 9y 4m NPP 7y <u>Total:</u> 14y 6m NPP 11y	AD	Violence	Father and victim members of bikie club - serious falling out – threats made to father – visited victim's office with father and friend – heated argument - offender 'lost it' and shot victim – five shots fired – employee shot in arm and seriously injured – part of joint criminal enterprise to kill – agreement on behalf of offender based on defence of father - upper mid-range for manslaughter

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)	Type	Plea	Sentence	Appeal	Record	Facts
65.	Hamzy (27) [2016] NSWSC 1512 RA Hulme J [2018] NSWCCA 53	Excessive self defence Shooting - general	VG Manslaughter (murder trial - 25% for offer to plead) s.33 (20% for offer to place on Schedule)	10y 6m NPP 7y 6m 5y 8m NPP 4y 3m <u>Total:</u> 11y 6m NPP 8y 6m	AD	Significant including violence and weapons offences – breached bond	Member of gang – took loaded glock pistol to meeting with estranged associate – shot at associate sitting in car 11 times – wounded associate – shot dead passenger – pre-emptive strike – residential street on Sunday afternoon – circumstances of shooting made it serious - convicted of s.33 offence as alternative to wound with intent to murder Delay of some relevance
66.	Hart (No. 5) [2016] NSWSC 1612 Campbell J	Substantial impairment Shooting - general	VG (murder trial - 20% for offer to plead) 7 further related offences	8y NPP 5y 4m <u>Total:</u> 8y 4m NPP 5y 8m		Nil	Shot male victim in head with pen gun – argument over drugs – offender and victim worked together as drug dealers – both addicted to drug ice - impulsive, spontaneous act - offender substantially impaired by abnormality of mind arising from stimulant use disorder or substance induced psychotic disorder. Strong subjective case - very good prospects of rehabilitation - low risk of further offending – special circumstances
67.	Magro (31) [2019] NSWSC 343 Wilson J [2020] NSWCCA 25	Shooting – general Excessive self defence	VG Manslaughter (at murder trial – 20% for offer to plead on appeal) VG s.93G(1)(b)	<u>Indicative</u> 15y 3m 4y 6m <u>Aggregate:</u> 16y NPP 12y	AA <u>Indicative</u> 12y 7m 4y <u>Aggregate:</u> 13y 4m NPP 10y	assault police – resist arrest – drug supply offences	Over several days dispute between offender, 20y victim and victim's younger brother – victim and brother physically assaulted offender causing lacerations and bruising – offender vandalised premises and car at victim's family home – victim approached offender's home with five men making threats from driveway – offender stood on verandah brandishing then firing gun into air – both offender and victim angry and making threats – offender approached victim until 2 metres apart – fired and struck victim in neck when he took several steps forward – intent to kill – extraordinarily disproportionate response to perceived threat – culpability for manslaughter towards top of range – s.93G made more serious by danger presented to public History of substance abuse – bleak prospects of rehabilitation – personal deterrence important in view of large collection of illegal weapons – suffering from chronic pain making custodial conditions more onerous On appeal increased discount for offer to plead guilty

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)	Type	Plea	Sentence	Appeal	Record	Facts
68.	Russell [2019] NSWSC 459 Hidden AJ	Shooting – general Excessive self defence	PG Manslaughter (12.5%) VG 2 x s.33A	10y 6m 8y NPP 6y (each) <u>Aggregate:</u> 14y NPP 10y 6m		includes drugs, BES and stalking	During aggressive confrontation with two male acquaintances in street fired shots at one male hitting and killing innocent bystander in car situated between offender and male – history of animosity – earlier in day acquaintances had issued verbal threats in presence of offender’s mother and girlfriend and thrown rock at offender’s car smashing window Difficult background – low intelligence – learned violence from father – early drug abuse – remorse – some prospects of rehabilitation
69.	Becker (33) [2019] NSWSC 1205 Button J	Shooting – general Excessive self defence	PG (25%)	9y 9m NPP 7y 3m		breached parole for offence of drug dealing	Offender and victim both part of criminal group involved in drug dealing – both men armed by leader of group – both men met with leader over victim’s failure to return rental car – offender shot victim once in abdomen – believed victim reaching for his firearm – offender heavily intoxicated with ice Commenced drug use and criminal record later in life
70.	M.Basanovic (47 at offence – 54 at sentence) [2019] NSWSC 1770 Button J Co-offender: W.BASANOVIC	Excessive self defence Shooting – general Accessory	PG (20% total) Manslaughter s.33	11y 2m NPP 7y 9m 7y 5m <u>Total:</u> 13y 8m NPP 10y 3m		sparse but significant – firearms and violence	Deeply entrenched in drug and criminal milieu – falling out with victim led to well-founded fear of being killed – attended business premises of victim with son intending to ‘get in first’ and kill victim – son fatally shot victim with gun provided by offender – victim unarmed - uninvolved employee ‘accidentally’ shot and seriously wounded – excessive self-defence - joint criminal enterprise – offender was instigator and as culpable as son – very grave example of offence Convicted of murder at first trial (successful conviction appeal) – in segregated custody for 6 years – long history of depression and cognitive impairment from accident

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)	Type	Plea	Sentence	Appeal	Record	Facts
71.	Ahmad (33) [2020] NSWSC 1195 Button J [2021] NSWCCA 30	Fight - shooting Shooting – general Accessory	PG (25% combined on appeal)	7y NPP 5y 3m	AA 6y NPP 4y 6m	Violence: AOABH, affray, firing firearms, possess loaded firearm	Extended joint criminal enterprise - altercation between two groups resulting in gunfight – offender's brother shot and killed victim - spontaneous and unexpected involvement by offender - did not bring weapon and not aware of altercation – picked up weapon from wounded associate – saw opposing male point gun - fired warning shot. Loving husband and father - difficult family upbringing, including civil war in Lebanon - chronic anxiety and substance abuse. On appeal: SJ failed to give discount for assistance – 5% discount imposed.
72.	Elsamad (19 at offence – 22 at sentence) [2020] NSWSC 1372 Hidden AJ	Unlawful and dangerous – shooting Shooting - general	VG (at murder trial - 15% for offer to plead)	10y NPP 7y		Robbery in company, dishonesty, possess drugs.	Shot victim – animosity between offender and victim – earlier episode of aggression by victim – offender deliberately obtained shotgun from apartment and confronted victim although acting impulsively Troubled background - limited intelligence - history of depression
73.	Hawkins (No 12) (32) [2020] NSWSC 1910 Loneragan J	Shooting - general Excessive self-defence	VG (at murder trial - 25% for offer to plead)	7y 6m NPP 5y		Assault, possess weapons, domestic violence offence.	Frightened by victim after altercation over motorbike in which offender had been suddenly stabbed and threatened - perception of threat heightened by PTSD - obtained loaded firearm and returned to victim's home to warn him – shot victim when he came out with long timber and silver implement offender thought was a shotgun Remorse – good prospects of rehabilitation
74.	Bean (46) [2022] NSWSC 783 Cavanagh J	Excessive self defence Shooting - general	PG (25%)	6y NPP 4y		Cultivate plant, supply drug.	Shot male victim following reciprocal arguments and threats due to victim having commenced relationship with offender's girlfriend – victim drove his vehicle at offender – offender shot victim whilst in car believing victim was reaching for a gun to shoot him – shot victim's shoulder blade – victim got out of car, wrestle took place – victim died on route to hospital. Troubled upbringing – PTSD – prior good character, led purposeful life, no violence – drug abuse – good rehabilitation prospects – family support.

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)	Type	Plea	Sentence	Appeal	Record	Facts
75.	Zarshoy (28) [2023] NSWSC 1177 Davies J	Unlawful and dangerous Shooting - general	VG (at murder trial)	12y NPP 8y		Lengthy including serious violence – beached conditional release order for suspended driving	Attended home of victim to purchase illegal military type gun – shot victim once in leg severing artery – no argument or struggle – motive unclear – above mid-range Impoverished refugee family from Afghanistan – mental health issues resulting from long history of drug abuse – special circumstances – personal deterrence – prospects of rehabilitation guarded – risk of institutionalisation – some concurrence to existing sentence
76.	Garland (63) [2024] NSWSC 80 Hamill J	Shooting – general Accessory Unlawful and dangerous - shooting	VG (murder trial)	7y NPP 3y		Nil violence – recent drug supply offences – breached parole	Drove male acquaintance to residential area at night – became party to agreement to commit unlawful and dangerous act of violence although unaware of gun or identity of victim – waited in car – co-offender shot dead grandmother in her home – significant disconnect between joint criminal enterprise offender a party to and magnitude of crime committed – knew little of plan and involved for very short time Difficult life developing PTSD after near fatal poisoning – depressive disorder and physical health issues resulting in substance abuse – difficult custodial conditions – remorse – good prospects of rehabilitation – unlikely to re-offend – sentence reduced from 10y for unstated reasons – special circumstances based on partial accumulation to existing sentence Co-offender sentenced for murder
77.	Rae (No.2) (35) [2024] NSWSC 713 N.Adams J	Shooting - general Unlawful and dangerous - shooting	PG (10%)	9y NPP 5y 9m		Lengthy record including firearms offences	Shot male acquaintance during physical struggle in unit of friend – argument commenced over drug money owed – offender armed with loaded pistol although shooting not intentional Difficult childhood – both parents suffered mental health issues and committed suicide – violence – reduction in moral culpability - offender diagnosed with serious mental health issues – risk of institutionalisation – remorse – some prospects of rehabilitation – special circumstances

Last Updated: June 2024

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.