

Manslaughter

Victim Under 18 Years

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Ditfort NSWSC 30.11.1989 Loveday J NSWCCA 17.3.1992	Victim under 18y Assault - domestic	PG	MT 7y 11m AT 2y 6m	AD	minor	Punched de facto's child in stomach and head in response to whingeing - failed to obtain medical assistance - placed child in bed and left house
2.	Vaughan (1991) 56 A Crim R 355	Victim under 18y Assault - domestic	PG Mansl Mal inflict GBH	MT 2y 6m AT 9m	Crown AA MT 3y 6m AT 18m	nil	Young father killed 5-month-old child - threw child into lounge from shoulder height several times in response to child's continual crying - broke child's arm two weeks earlier
3.	Chayna (1993) 66 A Crim R 178	Diminished responsibility Victim under 18y Stabbing - domestic	VG		Conviction AA 3 x manslaughter substituted MT 6y AT 6y 2 x FT 6y (concurrent)		Female offender - invited sister-in-law to house and subjected her to 'frenzied attack', hiding body in backyard - later that night stabbed own daughter and left body in room for two days - stabbed second daughter two days later when she returned from camp Major depressive illness Convicted at trial of 3 x murder
4.	Vangelder NSWCCA 28.2.1994	Unlawful & dangerous- assault Victim under 18y Assault - domestic	VG	MT 3y AT 2y	AD	nil	Female baby-sitter killed 4-month-old baby by shaking - mistreated baby previously for 'misbehaviour' Low intelligence

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5.	Haynes 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 step-daughter 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
6.	Sempel NSWCCA 31.3.1994	Victim under 18y Assault – domestic Unlawful and dangerous - assault	PG	MT 5y 3m AT 1y 9m	AD	recog for neglect of older child	Female killed 1-month old daughter - child previously suffering multiple injuries
7.	Cutmore NSWSC Hunt CJ at CL 27.7.1994	Victim under 18y Assault – domestic Unlawful and dangerous - assault	PG	MT 15m AT 21m		no violence	Male killed de facto's 11-month-old nephew - child whingeing after falling out of cot - smacked child across head once.
8.	Cameron (19) NSWCCA 27.9.1994	Criminal negligence Electrocution Victim under 18y	VG	MT 8m AT 16m	AD	BES, supply, escape	Playing with power lines with friends - left exposed line - 15y male electrocuted when out walking his dog
9.	Barnett (1994) 71 A Crim R 515	Diminished responsibility Shooting – domestic Victim under 18y			Conviction AA Manslaughter substituted: MT 8y AT 2y		Minding two step children while working as security guard - children arguing and shot step son at point blank range Brain damage as a result of car accident - loss of self-control Convicted of murder at trial

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10.	Armstrong NSWSC B-Parker J 25.8.1995	Criminal negligence Victim under 18y Failure to provide	VG	4y GBB		Nil	Mother failed to seek medical attention for four hours after child placed in scalding water by de facto - de facto convicted of murder
11.	Hunt NSWSC Hidden J 2.4.1996	Diminished responsibility Victim under 18y Poison / drug	PG	MT 3y AT 4y		nil	Mother poisoned son on four occasions over several weeks Borderline personality disorder - symptoms of Munchausen's Syndrome by Proxy
12.	Grierson NSWCCA 28.10.1996	Diminished responsibility Victim under 18y Assault - domestic	PG	MT 3y AT 3y		no relevant convictions	Mother threw child across room - one-off episode Borderline personality disorder
13.	Wilson (19) NSWSC B-Parker 19.12.1997	Assault – domestic Victim under 18y Unlawful and dangerous - assault	VG (at murder trial)	MT 3y AT 4y 6m		Minor	Angered at crying of 2m daughter – slapped her to face then shook vigorously causing almost immediate death Physically abused by mother and sexually abused by step-father – prospects of rehabilitation with aunt in Canada
14.	Murdoch NSWCCA 10.12.1998	Victim under 18y Assault – domestic Unlawful and dangerous - assault	PG	MT 10y AT 5y	AD		Male angered when de facto's 3y son dirtied clothes - blow to abdomen and forced child to have cold shower - few factual details

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15.	Wilkinson (19) NSWSC Wood CJ at CL 9.4.1998 [1999] NSWCCA 248	Criminal negligence Victim under 18y Failure to provide	VG	MT 3y 6m AT 3y	AD	nil	Mother failed to protect wellbeing of 6m son - ignored bruises for which de facto offered innocent explanations - ignored breathing difficulty - talked out of taking child to doctor by de facto over 2 days - suspected de facto mistreating child - inattentive and disinterested mother Mother of older daughter born when offender 16y and younger child
16.	Dawney (30) [1999] NSWSC 944 Barr J	Substantial Impairment Victim under 18y Assault – domestic	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
17.	Cramp (55) (1999) 110 A Crim R 198 [1999] NSWCCA 324	Criminal negligence Unlawful and dangerous - misc Motor vehicle Victim under 18y	VG	MT 7y AT 2y 4m	AD	2 x PCA	“Worst case category” - allowed 16y intoxicated female to drive car at high speed - ran into telegraph pole killing driver - 3 young children in car - looking after victim and children who were neighbours.
18.	Wang [2000] NSWSC 447 Adams J	Unlawful and dangerous – assault Assault – domestic 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

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19.	Sette (31) [2000] NSWSC 648 Barr J	Substantial impairment Victim under 18y Stabbing - domestic	PG	2y suspended for 2y		nil	Female removed 1y son from adoptive parents during access visit - stabbed him and hid body in dam - impulsive killing - significant depressive illness for long period of time and in dissociated state at time of killing Forced into adoption by family - support of family – remorse - rehabilitation
20.	Luong (17) [2000] NSWSC 505 Sully J	Unlawful & dangerous - shooting Criminal negligence Juvenile offender Victim under 18y Shooting - domestic	VG	4y NPP 2y		nil	Hosted party for school friends at family home - while displaying gun deliberately fired at 16y female friend mistakenly believing no live ammunition in gun Excellent subjective features
21.	Mika Sagato (2000) 116 A Crim R 31 [2000] NSWSC 852 Grove J	Unlawful and dangerous - misc Victim under 18y Drowning	PG	2y suspended sentence		Nil	Husband and wife held down 3y child while mother poured water down his throat - all held genuine religious beliefs about demons and believed child needed to be exorcised Mother of child found mentally ill Intense religious beliefs – remorse – parents to four children
22.	Howard (26) [2000] NSWSC 876 Studdert J [2001] NSWCCA 309	Unlawful and dangerous - assault Victim under 18y Assault - domestic	PG (10%)	7y 6m NPP 5y 6m	AA Length of sentence confirmed but backdated to take into account PSC	previous convictions including assault on 7-week-old daughter	Severe shaking of 8-month-old son of de facto - no pre-meditation but lost temper at time of offence - previous shaking of daughter should have heightened awareness of consequences of shaking Strict protection
23.	Do [2000] NSWCCA 459	Criminal negligence Motor vehicle Victim under 18y	VG 2 x Mansl	MT 3y AT 1y (each)	Crown AD	nil	Driver of heavily laden truck lost control on downward incline of major road colliding with car and crashing into residential property - killed driver of car and 13y occupant of house - failure to observe warning signal and initial abandonment of responsibility although facts did not establish deliberate acceleration

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24.	Bilton (32) [2000] NSWSC 1113 Bell J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	VG Mansl AOABH	7y NPP 4y 6m FT 6m (concurrent)		nil relevant	Punched 2y son of de facto in chest then severely shook child when child gasping for breath - angered by child's crying - threw tube of ointment at child Not living with child and mother - limited intellectual ability – remorse - threatened in custody
25.	Li [2000] NSWSC 1088 G.James J	Substantial impairment Victim under 18y	PG	5y GBB		nil	Mother killed young child intending to then kill self – manner of killing not stated Endogenous depression - remorse - retained family support.
26.	Recalde (23) [2000] NSWSC 1247 James J	Victim under 18y Assault – domestic Unlawful and dangerous - assault	PG	9y NPP 6y		prior convictions including assault on 13y child	Killed 6-month-old son of de facto - threw baby onto kitchen bench after scalding self with boiling water - water being boiled in preparation for shot of heroin - earlier in evening baby burnt on forehead when offender accidentally knocked over lamp while under influence of heroin - failed to obtain medical assistance Three months PSC - strict protection – remorse – youth - some prospects of rehabilitation
27.	Woodland (20) [2001] NSWSC 416 Wood CJ at CL	Unlawful and dangerous - assault Victim under 18y Assault - domestic	PG (20%)	8y NPP 5y		nil	Killed 2y son by forcefully ramming head into refrigerator - very young and immature parents living in stressful circumstances with mother's parents Evidence of prior good character - past problems with anger and aggression
28.	McDonald (2001) 124 A Crim R 17 [2001] NSWCCA 301	Criminal negligence Failure to provide Victim under 18y	PG	7y NPP 5y	AD		Offender and husband caring for young developmentally retarded boy and male teenager - probably foster carers - aware teenage boy was violently assaulting younger boy over some 10 days - did not prevent horrific assaults and failed to get medical assistance for final fatal assault Mild intellectual disability

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29.	Eriksson (23) [2001] NSWSC 781 Ireland AJ Co-offender: HILL	Criminal negligence Victim under 18y Failure to provide	PG (50% plea and assist)	3y NPP 18m		insignificant	Female - 2y son thrown into lounge by de facto – failed to obtain medical assistance despite deteriorating health of child - number of serious injuries inflicted on child by de facto over 10-14 days prior to death Difficult childhood - remorse - volatile and chaotic relationship with father of children then with co-offender - willing to give evidence against co-offender - will become blind within ten years - strict protection
30.	Hill (23) [2001] NSWSC 978 Ireland AJ [2003] NSWCCA 16 Co-offender: ERIKSSON	Criminal negligence Victim under 18y Failure to provide	PG (11%)	8y NPP 6y	AA 6y NPP 4y 6m	prior convictions	Physically abused 2y son of de facto over several weeks prior to death - refused to obtain medical treatment On appeal found SJ could not have been satisfied offender inflicted final injury on victim nor prevented mother from obtaining medical assistance
31.	Laupama (29) [2001] NSWSC 1082 Bell J	Substantial impairment Assault - domestic Victim under 18y	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
32.	Byrne (33) [2001] NSWSC 1164 Dunford J	Unlawful & dangerous - assault Victim under 18y Assault - domestic	PG (15%)	8y 6m NPP 6y			Mother killed 5y son under stress of being parent - multiple injuries – burning and bruising – left child uncovered in cold bathroom in middle of winter - no medical treatment until too late
33.	Richards (39) [2002] NSWSC 415 Kirby J	Substantial impairment Victim under 18y Poison / drug	PG (25%) Mansl 2 x Att murder	5y GBB (from date of sentence) FT 15m 10d (immediate release)		nil	Suffering delusional disorder focussed on perceived sexual abuse by fathers of children - faced losing custody of children at Family Court hearing - attempted to kill self and three children by carbon monoxide poisoning - only baby died Improvement in mental health - protective custody - remorse

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34.	Webb [2002] NSWSC 618 Hulme J	Unlawful and dangerous - assault Victim under 18y Assault - domestic	PG (10%)	7y 6m NPP 4y 6m		AR, driving	Struck 8 month old baby daughter - at home alone with 5 children under 6y while wife shopping. Unsettled upbringing - Aboriginal background.
35.	O'Brien [2003] NSWCCA 121	Criminal negligence Victim under 18y Failure to provide	VG	5y NPP 2y	AD	Nil	1y daughter died of malnutrition – refused to take daughter to hospital when requested by doctor – claimed husband refused hospital treatment and she was threatened and dominated by him – suffering BWS Assistance against husband – protective custody
36.	Marshall (22) [2003] NSWSC 448 Adams J	Unlawful and dangerous - assault Victim under 18y Assault - domestic	VG (at murder trial - 20% for offer)	6y NPP 3y 6m			Shook 9m son of girlfriend – minding child while mother at work – unthinking, momentary anger – no history of abuse Low intelligence – history of behavioural problems - protective custody - remorse and contrition
37.	Monroe (30) (2003) 149 A Crim R 478 [2003] NSWSC 1271 O'Keefe J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	VG	7y 6m NPP 4y		Priors including assault	Shook 3m baby boy, threw him on lounge and punched in abdominal area – angry and intoxicated Depression and heart condition – protective custody
38.	Hoerler (20) [2003] NSWSC 1187 Miles AJ (2004) 147 A Crim R 520 [2004] NSWCCA 184	Unlawful and dangerous - assault Assault – domestic Victim under 18y	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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39.	Wilson (30) [2003] NSWSC 1257 Miles AJ (2005) 62 NSWLR 346 [2005] NSWCCA 20	Unlawful and dangerous - assault Assault – domestic Victim under 18y	VG (at murder trial)	9y NPP 6y 11m	AA 6y NPP 4y 6m	Nil	Female - fatal shaking to 2y foster son – impact injuries to child inflicted earlier by husband – shook child in frustration Prior good character but troubled background – deteriorating psychiatric condition – protective custody
40.	Dalton (18) [2004] NSWSC 446 Adams J [2005] NSWCCA 156	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (10%)	7y NPP 3y 3m	Crown AA 9y NPP 4y 6m	Not stated	Forced head of 23m child of de facto against window – threw child on mattress – severe head injury – continuous abuse over long period Aboriginal with childhood history of physical and emotional abuse – borderline personality disorder
41.	Dawes [2004] NSWCCA 363	Substantial impairment Assault – domestic Victim under 18y	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
42.	HMF (30) [2005] NSWSC 1214 Latham J	Criminal negligence Assault – domestic Victim under 18y	PG (25%)	5y NPP 3y 9m		Record for property offences	Mother scalded 8m daughter in bath – no medical assistance called – no intent to harm History of drug abuse – suffering drug induced psychosis – judgment significantly impaired – genuine remorse
43.	RG (44) [2006] NSWSC 21 Buddin J	Substantial Impairment Victim under 18y Drowning	PG	3y NPP 1y 3m 2d (immediate release)		Minor	Mother drowned 5m daughter in river – suffering psychotic illness (substantial impairment in upper range) Protective custody – family and community support – remorse – good prospects of rehabilitation

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44.	Clare (35) [2006] NSWSC 812 Grove J (2008) 181 A Crim R 450 [2008] NSWCCA 30	Unlawful and dangerous - assault Victim under 18y Assault - domestic	VG Mansl PG s.66A	25y NPP 18y 9m FT 14y (concurrent)	AA 25y NPP 15y 9m FT 14y (concurrent)	Record for sexual offences against children	Babysitting 3y boy – sexually penetrated victim - victim vomited and choked – applied electrical wires in attempt to revive already deceased victim – death caused by unlawful and dangerous act of anal intercourse - worst case category Self-confessed paedophile - serving sentence for sexual assault of victim's 6y sister
45.	Rowe (26) [2007] NSWSC 300 Howie J	Unlawful and dangerous - misc Victim under 18y Poison / drug	VG (at murder trial)	5y 6m NPP 3y		Drugs and dishonesty	Mother killed 7m son by ingestion of methadone – struggling to cope with crying baby – sought to settle – distraught at death Disturbed childhood resulting in early drug addiction – onerous custodial conditions
46.	Mundene (19) [2007] NSWSC 355 Howie J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (20%)	6y 9m NPP 3y 9m (cumulative to revoked parole)		Dishonesty – breached parole	Male killed de facto's 7m son by shaking – isolated anger against crying child – warned he could injure child – breach of trust Aboriginal with disrupted background – drug abuse – immaturity - remorse
47.	Leach (23) [2007] NSWSC 429 Hulme J (2008) 183 A Crim R 1 [2008] NSWCCA 73	Unlawful and dangerous - assault Assault – domestic Victim under 18y	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
48.	Schultz (23) [2007] NSWSC 809 Barr J	Substantial impairment Assault – domestic Victim under 18y	PG	7y NPP 3y 6m		Nil	Mother killed 9m daughter – shook baby and head struck against brick fireplace – unable to settle crying child – intent to do GBH – suffering depressive illness and possible other mental conditions exacerbated by cannabis use Remorse – prior good character

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49.	Thurlow (20) [2007] NSWSC 1203 Mathews AJ	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (25%) Mans Att pervert course of justice Sched: Att pervert course of justice	6y 9m NPP 4y 3m 16m NPP 9m Total: 7y 6m NPP 5y		Record – mostly subsequent to offence	Female - pushed 16w daughter of de facto into futon bed – head hit wooden armrest – frustrated at crying – asked cell mate to confess to killing over 2 months – attempted to have de facto lie about offence Traumatic childhood resulting in early drug addiction - remorse
50.	CK (15) TS (15) [2007] NSWSC 1424 Latham J	Unlawful and dangerous - assault Assault – general Juvenile offender Victim under 18y	PG (25%) PG (25%)	6y NPP 4y 6y NPP 3y 6m		Priors – breached bond nil	17y walking down main street of town late at night – headbutted by CK – punched to head by TS – unprovoked attack – died of subarachnoid haemorrhage Drug and alcohol abuse – difficult childhoods
51.	Compton (30) [2008] NSWSC 204 Studdert AJ	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (10%)	9y NPP 6y 9m		Lengthy – assaults on de facto partners	Assaulted 17m daughter of de facto – punched victim in stomach and to head – failed to tell mother or obtain medical care – child died next morning – coming down from amphetamines – angry at inability to obtain more drugs – lied to police Intellectual disability
52.	Williamson (19) [2008] NSWSC 686 James J	Excessive self defence Stabbing – general Victim under 18y	PG (15%)	5y NPP 2y 6m		Nil	Stabbed 15y male once in abdomen with broken glass drug smoking pipe during fight at party in bushland – fight provoked by victim jealous of offender's relationship with ex-girlfriend – assaulted by victim and others – sustained head injury – spontaneous offence – intent to cause GBH – intoxicated Disrupted childhood – substance abuse – good prospects of rehabilitation

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53.	HA (29) [2008] NSWSC 1368 Rothman J	Criminal negligence Victim under 18y Failure to provide	PG (35% plea and assist)	2y suspended sentence		Nil	Failed to obtain medical care for 4y son – son suffering numerous medical conditions resulting in severe malnutrition – died from pneumonia and kidney infection – need for medical care would have been obvious to parents – medical care declined due to genuine religious beliefs of HA and husband – husband older and dominating figure (although not abusive) – breach of trust - child otherwise well cared for – low level of culpability Mother to ten surviving children – husband died since arrest – subsequent support of family and providing good care for remaining children – remorse – borderline intelligence
54.	GJL (36) [2009] NSWDC 167 Knox SC DCJ	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (20%)	6y NPP 4y		nil	Mother of 9w baby violently shook baby – using drugs – one off incident Suffering long term psychiatric problems as a result of sexual assault and drug use
55.	T Sam M Sam [2009] NSWSC 1003 Johnson J (2011) 206 A Crim R 67 [2011] NSWCCA 36	Criminal negligence Victim under 18y Failure to provide	VG VG	8y NPP 6y 5y 4m NPP 4y	AD	Nil Nil	Parents of 9m daughter failed to obtain appropriate medical treatment for eczema over many months – father a trained homeopath – each offender well educated - upon examination at hospital found to be in severe pain, malnourished, dehydrated, severe skin condition and ulcerated eyes – died from infection – serious case of negligence - seriousness of medical condition clear – failure constituted cruelty Subsequently have 3y son – successfully treated for eczema – delay in charging – effect of imprisonment on son exceptional circumstances – limited insight into offences T Sam – narcissistic personality traits – rigid reliance upon homeopathic remedies M Sam - compliant woman

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56.	BW (No 3) (46) [2009] NSWSC 1043 Hulme J [2011] NSWCCA 176	Criminal negligence Victim under 18y Failure to provide	VG	16y NPP 12y	AD	Nil	Father of 7y daughter who died from starvation and neglect – victim suffered developmental delay and autism – left in bedroom in unhygienic conditions - ignored daughter - worst case Mother convicted of murder - [2009] NSWSC 1043 / [2013] NSWCCA 103 Unlikely to reoffend – rehabilitation.
57.	Nguyen (No.2) (29) [2009] NSWSC 1120 Hoeben J	Substantial impairment Assault – domestic Victim under 18y	VG 2 x manslaughter	5y NPP 3y (each) <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
58.	Shepherd (31) [2010] NSWSC 154 RA Hulme J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (12.5%)	7y NPP 4y 6m		Record including assaults	Killed 4m son – had sole care of child after mother died – death caused by blunt force injury to head – accepted handling of child too rough on more than one occasion – threw child onto bed in frustration - no experience in caring for children and inadequate knowledge – caused fractured ribs on different occasion – offence in lower range Difficult and traumatic childhood – suffering depression - strong remorse – good prospects of rehabilitation
59.	HT (16) [2010] NSWSC 324 Hidden J	Excessive self defence Juvenile offender Fight – stabbing Victim under 18y Stabbing - general	PG (15%) Mansl Carry knife in public place	6y NPP 3y FT 3m (concurrent)		nil	Fatally stabbed 17y youth on train – victim's group pursued offender's group on train – victim stabbed several times to chest when he approached offender throwing punches – carried knife for personal protection Deep remorse – fearful as a result of being a victim of violence in the past – violence out of character

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60.	NLH (18) [2010] NSWSC 662 RA Hulme J Co-offender: PFC	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (30% plea and assist)	4y 2m NPP 2y 6m		Nil	Female killed 7 week old baby – blunt force injury to head - young mother of victim and toddler – post natal depression – violence of partner towards victim in past Remorse – good rehabilitation prospects.
61.	PFC (24) [2010] NSWSC 834 RA Hulme J (PTC) [2011] NSWCCA 51 Co-offender: NLH	Criminal negligence Victim under 18y Failure to provide	PG (5%) Sched: 2 x possess cannabis leaf	5y 2m NPP 3y	AD	Nil	Failed to obtain medical assistance for 7w baby knowing partner and mother of victim had harmed victim – NLH threw victim into bassinet then pushed bassinet which fell onto ground – victim stopped breathing later in evening - earlier injuries also found on victim's body Young couple struggling financially – NLH difficulty in coping with raising two small children - good character – supportive family – good rehabilitation prospects – remorse
62.	LC (32) [2010] NSWSC 815 Hidden J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (10%)	14y 6m NPP 10y 6m		Manslaughter (diminished responsibility)– killed stranger at brothel – breached parole	Killed 13m stepson – held baby around the neck while shaking and choking him violently – threatened mother with knife when she attempted to intervene – threw child on mattress and stomped on chest - prior assaults over previous five months – slapped, shook, choked and punched baby on four prior occasions – impulsive offence Aboriginal with difficult childhood – drug and alcohol abuse
63.	Sutton (19) [2010] NSWSC 1273 Adams J	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (25%)	4y NPP 2y		minor	Caused death of 6m daughter through improper handling that reasonable person would have known carried appreciable risk of harm – nature of assault unclear – probably shaking - no prior violence – isolated aberration inconsistent with offender's character – probably single unpremeditated act of momentary frustration and lack of control in ignorance of potential for significant injury Remorse – very good prospects of rehabilitation – strict protection

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64.	LTN (29) [2011] NSWSC 614 Hidden J	Substantial impairment Victim under 18y Drowning	PG (20%)	4y NPP 2y		nil	Suffering from schizoaffective disorder – drowned 2y daughter in canal – had been seeking to kill herself as well – impairment of very high order Good family support – good prospects of rehabilitation
65.	HT (17 / 34) [2012] NSWSC 656 Hidden J	Accessory Juvenile offender Stabbing – general Victim under 18y	VG (at murder trial – 30% for offer to plead and assist) Rob in Co	6y 6m NPP 2y 3m FT 3y 6m (concurrent)		Little of significance	1995 – robbed 16y school boy walking home from sports training – co-offender armed with knife – victim stabbed by co-offender during struggle – aware of knife and contemplated use to scare victim Evidence of rehabilitation – assistance against father of co-offender for accessory after fact to murder
66.	Duncan (36) [2012] NSWCCA 78	Motor vehicle Victim under 18y	PG 2 x Manslaughter 3 x Agg dangerous driving causing GBH	9y 6m NPP 5y (each) FT 3y <u>Total:</u> 12y 6m NPP 8y	AD		Female driving car load of passengers 3am on country road – encouraged male driver to reach excessive speeds on journey out – on return journey sought to better speed – passengers asking offender to slow down - missed bend and collided with trees – four passengers aged under 18y Remorse – mother to children – excellent prospects of rehabilitation
67.	Rees (27) [2012] NSWSC 922 Grove AJ	Substantial impairment Victim under 18y Drowning	VG (at murder trial – offer to plead)	5y NPP 3y 2m		nil	Female – drowned 17mth daughter by leaving in bath Ongoing destructive cruel relationship with father of child – lack of support - depression and depersonalisation led to actions which couldn't properly assess and control - otherwise loving and exemplary mother - good prospects rehabilitation
68.	JC (17) [2012] NSWSC 1393 Barr AJ	Unlawful and dangerous - stabbing Juvenile offender Stabbing – domestic Victim under 18y	PG (modest)	5y 6m NPP 3y		nil	Female – stabbed 16y brother of de facto at offender's flat – reason for killing unclear – spontaneous offence Troubled background – drug and mental health problems – probably in dissociative state at time of killing – remorse – chronic physical illness

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
69.	Forrest (22) [2013] NSWSC 377 Fullerton J	Unlawful and dangerous - assault Victim under 18y Assault - domestic	PG (10%)	8y NPP 6y		Drugs, assault	In relationship with 4y victim's mother – gave victim a bath and repeatedly struck him to head, face and nose and abdomen – position of care and trust – considerable assault but not sustained or premeditated – affected by drugs Amphetamine use – dysfunctional upbringing – poorly educated – prone to violent outbursts
70.	Smith (31) [2013] NSWSC 796 Latham J [2014] NSWCCA 316	Criminal negligence Victim under 18y Failure to provide	PG (25%) Mansl Access after fact to murder	FT 7y 12y NPP 9y Total: 16y NPP 12y	AD	Relatively minor	Failed to obtain medical treatment for 6y daughter of de facto – victim assaulted by mother – after unsuccessful attempts to revive child offender put her to bed and went to work next day – child died during day – body placed in suitcase for several days then placed in shallow grave in bush and burned – gave false accounts of disappearance and laid false trails for over nine months – aware victim subjected to long term physical abuse at hands of mother – acted out of loyalty to de facto – manslaughter top of range – accessory worst case Co-offender sentenced for murder: Abrahams
71.	JP (15) [2014] NSWSC 698 Hall J Co-offenders: AN JH	Unlawful and Dangerous - assault Assault - general Juvenile offender Victim under 18y	VG (murder trial)	10y NPP 7y		Nil	Attended party uninvited - part of deliberate and unprovoked attack by six members of group on male guest – during sustained assault struck victim over head with bottle causing death Suffering intellectual disability

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
72.	Robertson (44) [2014] NSWSC 1401 Harrison J [2015] NSWCCA 251	Unlawful and dangerous - stabbing Accessory Stabbing – general Victim under 18y	PG (15%)	10y 8m NPP 8y	AD		Part of a joint criminal enterprise involving unlawful and dangerous act – agreement to "rough up" or assault male target in return for drugs – offender drove co-offender to place where target worked – stayed in car – co-offender mistakenly and fatally stabbed 15y son of target in chest - no knowledge co-offender armed with knife/weapon or would kill or inflict GBH Rehabilitation prospects – good family support – no previous violence Co-offender sentenced for murder: McArthur [2014] NSWSC 1401
73.	AN (15) [2014] NSWSC 1879 Hall J [2015] NSWSC 308 Hall J Co-offenders: JP JH	Accessory Juvenile offender Unlawful and dangerous - assault Assault – general Victim under 18y	PG (15%)	5y 11m NPP 3y (Order made to remain in juvenile detention until 21 years)		Nil prior – subsequent break and enter offences	Present in group of 6 during attack on 17y victim outside a party – victim struck to head with wine bottle and died of head injuries – intentional and unprovoked attack – attack was retaliation for victim speaking to police after being robbed months earlier – did not strike victim and not initiator of attack – bottom of hierarchy of co-offenders Good prospects of rehabilitation
74.	JH (15) [2014] NSWSC 1878 Hall J [2017] NSWCCA 22 Co-offenders: JP AN	Accessory Juvenile offender Unlawful and dangerous - assault Assault – general Victim under 18y	VG (at murder trial)	10y NPP 7y	AD	nil	Present in group of 6 during attack on 17y victim outside a party – victim struck to head with wine bottle and died of head injuries – intentional and unprovoked attack – attack was retaliation for victim speaking to police after being robbed months earlier – part of group decision to attack victim

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
75.	A (No 5) (34) [2015] NSWSC 670 Bellew J	Criminal negligence Victim under 18y Failure to provide	VG	4y 6m NPP 2y 6m		Nil	Female – failure to obtain medical treatment for 2y son over one month - victim suffered physical injuries and displayed symptoms of being unwell – no evidence offender present when injuries inflicted - period of offending followed offender’s hospitalisation for episode of self-harm - otherwise appropriately attentive to child’s needs - offending behaviour was aberrant – no deliberate decision not to obtain medical assistance - not total abandonment of responsibility - substantially below mid-range Difficult background – mental illness / health – unlikely to re-offend
76.	KJ (27) [2015] NSWSC 767 Harrison J	Criminal negligence Victim under 18y Failure to provide	PG (40%) (see facts for additional offences)	<u>Manslaughter</u> 12y <u>Aggregate:</u> 14y NPP 10y 6m		nil	Mother to four children including 7y male victim - intellectually disabled victim subjected to constant physical and psychological abuse by offender and her partner as method of discipline – lied to police suggesting death resulted from fall off pogo stick – failed to obtain medical assistance for 24h – all offences committed in presence of siblings (children) – substantial emotional and physical harm – manslaughter most serious case of neglect – other offences vary in seriousness from low to above mid-range 4 x s.61 assault s.91G(1)(c) child abuse offence 3 x s.91H(2) child abuse offence s.35(3) reckless wounding in company s.43A(2) fail to provide necessities Sched: 2 x fail to provide adequate lodgings Childhood characterised by violence and sexual abuse – relationships characterised by violence – low intelligence – dependent personality – came under control and influence of co-offender – genuine remorse – assistance – voluntary admission to previously unknown offences

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
77.	MB (35 at offence – 41 at sentence) [2017] NSWSC 619 Beech-Jones J	Substantial impairment Drowning Victim under 18y	PG	4y GBB (little under 2y PSC)		Nil significant	2010 offence - mother either drowned or failed to retrieve 6m daughter from water – reckless indifference to life – breach of trust – not planned Suffering schizoaffective disorder – major depressive disorder with psychotic features – became obsessed that daughter had genetic disorder despite testing showing no abnormality – found not fit to plead and sentenced to limiting term for murder – spent just under 2 years in custody before stabilising and entering plea for manslaughter Good personal support – prospects of rehabilitation – extra curial punishment – importance of supervision and reintegration into community
78.	Toohy (No 2) (38) [2017] NSWSC 1217 Fagan J	Unlawful and dangerous act - assault Victim under 18y Assault - domestic	VG (murder trial)	7y 6m NPP 4y 6m		Not relevant	Killed 11m daughter of partner - isolated and tragic incident - lost control on one occasion and inflicted several head injuries - under pressure of sole parenting - inflicted blows in frustration – did not intend harm but reasonable person would have realised likely to cause serious harm - considerable distress - violence not prolonged - no gratuitous or deliberate cruelty. Lack of express remorse – low likelihood of reoffending.
79.	BT (25) [2017] NSWSC 1600 Hidden AJ	Unlawful and dangerous - assault Victim under 18y Assault – domestic	PG (20%)	8y NPP 5y		Lengthy but much insignificant – some common assault – assault on mother of victim after death of child	Killed 8w daughter by blow to back of head – circumstances of killing unknown – serious breach of trust – spontaneous offence Difficult and violent childhood – remorse – some prospects of rehabilitation – protection in custody

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
80.	Chandler (22) [2017] NSWSC 1758 Johnson J [2023] NSWCCA 59	Unlawful and dangerous - misc Motor vehicle Victim under 18y	PG (5%) Mansl Sched: Take and drive MV Drive unlicensed Police pursuit offence	19y NPP 13y	AA 15y 8m NPP 10y 6m	breached bail – lengthy record – many driving offences – aggravating factor	Offender driving stolen car in police pursuit – drove through backyard killing 18m child – continued driving through park with adults and children and pursuit terminated – never held a licence to drive – previously lived in area and aware of proximity of park through backyard – held actual realisation of appreciable risk of serious injury – at gravest end of spectrum - aggravated by being committed in home of victim Extremely dysfunctional and difficult childhood resulting in early and heavy drug abuse – mental health issues – <i>Bugmy</i> considerations – institutionalised criminal – protective custody due to nature of offence On appeal: manifestly excessive
81.	TP (mid 30s) [2018] NSWSC 369 Hamill J	Criminal negligence Victim under 18y Failure to provide	PG (20% plea and assist)	4y NPP 18m		minor traffic	Mother failed to remove 12y daughter from danger and obtain medical treatment – aware victim brutally subjected to severe physical abuse over many years by male partner – aware of extent and seriousness of abuse – offender and second daughter also subjected to abuse – failed to obtain medical treatment after threats by partner and fear of losing children although on occasions obtained treatment for herself Suffering batter women's syndrome – PTSD and depression – significantly reduced culpability – onerous effect of custody Male partner sentenced for murder JK [2018] NSWSC 250
82.	ES (No.2) (33) [2018] NSWSC 1708 McCallum J [2019] NSWCCA 262	Unlawful and dangerous - assault Victim under 18y Assault - domestic	PG (12%) Sched: AOABH on same victim	8y NPP 5y	AD	Nil	Shaken baby killing – shook 3-month-old daughter when trying to settle her - sudden loss of self-control in challenging circumstances – impact of offender's PTSD on capacity to manage stresses of early parenting taken into account reducing moral culpability - offence also involved some force Difficult background – refugee from Iran – good character – well regarded – mental health issues - reasonable prospects of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
83.	AS (22) [2018] NSWSC 930 Fullerton J	Criminal negligence Victim under 18y Failure to provide	PG (50% plea and assistance)	3y NPP 16m			Female - failed to remove 2y 8m daughter from abusive domestic relationship with partner and failed to obtain medical treatment – death of victim caused by assaults of male partner over two days – sustained assaults on child in week before fatal assault – offender also subjected to physical abuse and control by male partner History of sexual and physical abuse at hands of father, step mother and subsequent partners – chronic and complex mental health issues – good character
84.	DF (25; 29 at sentence) [2022] NSWSC 762 Garling J	Victim under 18y Assault – Domestic Unlawful and dangerous - assault	PG (5%)	14y 3m NPP 10y 8m		Minor fraud. Not significant.	Female – mother killed own son / child aged 2 years 5 months – death caused by assault – blunt force injuries / trauma using hands or fists to victim’s head, abdomen, chest – multiple internal injuries and bruising – failed to call ambulance or take to hospital when victim appeared unwell. Unable to make any finding as to rehabilitation.
85.	Smith (31) [2022] NSWSC 1651 Wilson J	Criminal negligence Victim under 18y Failure to provide	VG (murder trial – 10% for offer to plead)	4y 9m NPP 3y 6m		Lesser offences – breached conditional liberty	Offender failed to fulfil legal duty to assist injured 6m child in his sole care – circumstances and perpetrator of fatal assault on 6m child not established — victim in sole care of offender – partially motivated by concern to avoid police involvement – accelerated victim’s death – affected by drugs Onerous conditions in custody – sentence reduction for efficient trial – willing to give assistance – remorse - prospects of rehabilitation
86.	Davidson [2022] NSWCCA 153	Motor vehicle Criminal negligence Victim under 18y	PG (25%) 4 x Mansl Agg driving cause GBH 2 x cause bodily harm	<u>Indicative</u> 14y 3m 6y 1y 4m <u>Aggregate</u> 28y NPP 21y	AA <u>Indicative</u> 10y 6m 5y 3m 1y 1m <u>Aggregate</u> 20y NPP 15y	Nil	Drove whilst under influence of drugs and alcohol at excessive speed - lost control of vehicle – mounted kerb, striking seven children from behind, dragging some of them along – four victims killed instantly – three victims injured, one with critical significant brain injuries – gross criminal negligence. Good subjective case – remorse, prospects of rehabilitation, prior good character - ADHD. CCA: sentence manifestly excessive.

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87.	Rudolph (24) [2023] NSWSC 181 RA Hulme J	Unlawful and dangerous - assault Victim under 18y	PG (10%)	8y NPP 6y		Possess drugs, damage property. On conditional liberty.	13-week-old baby – “vigorous” intentional shaking while head unsupported – in relationship with deceased’s aunt – incident occurred whilst caring for victim – had been awake all night having consumed drugs earlier. Drug addiction - deprived and dysfunctional childhood, neglect, physical and emotional abuse, exposure to violence, drugs – reduced moral culpability – no remorse – potential for rehabilitation.
88.	TB (13y 3m) [2024] NSWSC 447 RA Hulme AJ	Assault – general Unlawful and dangerous – assault Accessorial	PG (25%)	7y 6m NPP 4y 6m		nil	One of group of people bashed 16y male victim over 33 minutes – victim suspected of stealing airpods so lured to home of owner – victim assaulted by adult male in bedroom while offender and others looked on – when adult male left offender and others continued assault – offender stomping on victim’s chest - sustained and extremely vicious assault involving kicking, punching and stomping – attack filmed Moral culpability reduced by youth and background of serious neglect, trauma, violence and transience – cultural disconnection – mental health issues – genuine remorse – good prospects of rehabilitation Co-offenders sentences for murder: BE [2023]; BL [2024]; AD [2024]
89.	MR (No.5) (17) [2024] NSWSC 912 Huggett J	Stabbing – general Excessive self defence	VG (at murder trial – 25% for offer)	4y 6m NPP 2y 6m		Breached bond for AR – no other record	Stabbed male victim once in chest outside house at night – believed victim pulling knife from pants after physical altercation – offender had punched victim once to head after victim had accused offender’s girlfriend of indecent assault and acted in provocative manner – spontaneous and unplanned act – carried knife for protection after being victim of stabbing several years earlier – did not attend house for purpose of violence – intended GBH – lower end of objective seriousness Aboriginal male with history of family violence, incarceration and substance abuse – cognitive impairment and learning disorder – positive engagement with counselling and education – some detention incidents – remorse – reasonable prospects of rehabilitation – special circumstances permitting sentence to be served as juvenile

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90.	Craig (25 at offence / 62 at sentence) [2024] NSWSC 1059 N.Adams J	Assault – domestic Unlawful and dangerous - assault	PG (25%)	9y NPP 6y		Nil prior – fraud offence in 2009	(1987) Mother hit 2y 5m daughter with irrigation pipe as discipline – member of cult strictly controlled by leader who required physical discipline of children - body of victim burned by leader, offender moved overseas and lied about whereabouts of daughter – prolonged assault – breach of trust – home of victim – not act of gratuitous cruelty – above mid-range s.21B not applicable – old sentencing patterns applied Subsequently struggled with substance abuse and gambling – mental and physical health issues – late and genuine remorse – reasonable prospects of rehabilitation – special circumstances to reflect historical patterns
91.	JM (17) [2024] NSWSC 1345 Dhanji J	Excessive self - defence Stabbing – general Fight - stabbing	VG	5y NPP 2y 9m		Nil (mental health dismissal – treated as clear record)	Violent melee outside fast food restaurant – 17y victim had been aggressive and threatening towards offender in preceding days – sought out offender and initiated confrontation – at one point offender assaulted while on ground by group – perception of danger increased by mental health and cognitive deficiencies – swung knife at victim three times – significant level of threat – objectively exposed to risk of serious injury or death – believed necessary to defend self but not reasonable response – failed to take potential escape route – intent GBH only Long term impairments – anxiety, FASD and ADHD – cognitive and verbal deficits – very good prospects of rehabilitation – unlikely to re-offend – co-operation and conduct during trial – vulnerability in custody

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