

Murder: 2009

Maximum Penalty: Life (s.19A (NSW) Crimes Act)

Standard non-parole period (offences committed on or after 1.2.2003)

20 years

25 years - Where the victim was a police officer, emergency services worker, correctional officer, judicial officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation or voluntary work

Standard non-parole period (where conviction entered or plea of guilty made on or after 1.1.2008)

25 years - Where the victim a child under 18 years of age

	NAME (age if known)	PLEA	SENTENCE	APPEAL	SUMMARY OF RECORD	HOW KILLED	INVOLVEMENT & SUMMARY
1.	SHAMOUIL (20) [2009] NSWSC 24 Hidden J	PG (15%)	19y NPP 14y 6m (partially concurrent with existing sentences for attempt murder and drug supply)		Attempted murder – breached bail – committed subsequent offence of supply comm. qty amphet	Shooting Intent GBH	SNPP 20 years Co-offender arranged to meet victim at service station to discuss argument with offender's female cousin – Offender shot victim three times during argument – spontaneous offence – below mid-range. Assyrian – difficult childhood – carried gun as protection after exposure to violence – remorse Co-offenders sentenced for accessory after fact to murder
2.	O'DONNELL (21) [2009] NSWSC 42 Rothman J	VG	22y NPP 16y 6m		Nil	Stabbing	SNPP 20 years Became involved in altercation at hotel – stabbed victim in stomach and chest several times – spontaneous offences but carrying knife – only issue at trial was self defence – affected by alcohol but not drunk – mid range offence Troubled childhood – significant drug and alcohol problems – mild paranoia – good prospects of rehabilitation

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3.	FORDHAM (26) [2009] NSWSC 95 Mathews AJ Co-offender: BARRETT	PG (combined discount 45%)	14y 8m NPP 11y		Priors – prior gaol – breached bond	Stabbing Intent to kill	SNPP 20 years Stabbed male acquaintance of girlfriend in honest belief he was a hit man and threatened girlfriend and her children – deliberate and planned killing masterminded by girlfriend – victim lured to house and stabbed multiple times over period of time – body disposed of - mid-range Remorse – drug user – low intelligence – pawn for girlfriend – assistance - giving evidence against girlfriend.
4.	WILSON (34) [2009] NSWSC 365 Latham J	VG	25y NPP 18y		Minor assault offences	Assault Intent GBH	SNPP 20 years Assaulted male housemate with walking stick – left victim unconscious in bed – both intoxicated – probably argument over rent – spontaneous and unpremeditated offence – just below mid-range
5.	SPANIA (45) [2009] NSWSC 148 Barr J	PG Murder 3 x Firearms offences	24y NPP 18y FT 3-6m (concurrent)			Shooting Intent GBH	SNPP 20 years Shot 53y brother – history of being bullied by brother – feared brother – brother visited unit with 5y son uninvited – refused to leave – threatened with gun – shot once in chest – no premeditation – provocation - little below mid-range Iraqi – below average intelligence – physical disability caused by polio – remorse – obtained weapon for general protection years earlier
6.	PJS (33) [2009] NSWSC 153 Mathews AJ	VG	26y NPP 20y		Lengthy record – breached bonds	Assault	SNPP 25 years Severe assault of 3y step daughter left at home with offender and 9y sister when mother went to refuge – assaulted all over head and body – intoxicated – no recollection – position of trust – above mid-range Violent childhood – protective custody – violent relationship with wife
7.	EDWARDS (38) [2009] NSWSC 164 Buddin J	PG (15%)	18y 8m NPP 14y		Alcohol related – no gaol – breached bond and AVO	Assault Intent GBH	SNPP 20 years Severe assault of girlfriend staying at offender's house – no premeditation –offender and victim drinking alcohol and smoking cannabis – breached bond and AVO - a little below mid range Both aboriginal – difficult and abusive childhood – commenced drinking at 9y – smoking cannabis at 12y – alcoholic

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8.	AYTUGRUL (40) [2009] NSWSC 275 RA Hulme J (2010) 205 A Crim R 157 [2010] NSWCCA 272 [2015] NSWCCA 139	VG	28y NPP 21y	Conviction AD Sentence AA 27y NPP 20y 3m	Nil	Stabbing Intent to kill	SNPP 20 years Multiple stab wounds of ex-girlfriend in her home unit – prior stalking and obsessive behaviour – slightly above mid-range
9.	WICKS (47) [2009] NSWSC 266 James J	PG (10%)	20y NPP 15y		Minor offences – drugs and assault	Stabbing Intent to kill	SNPP 20 years Multiple stab wounds to female acquaintance – argument over drugs – spontaneous offence – element of provocation – sustained attack – judgment affected by alcohol – loss of self control – a little below mid-range Long term substance abuse – attempted suicide after viewing autopsy report – remorse – good prospects of rehabilitation
10.	BARRETT (20) [2009] NSWSC 338 Mathews AJ Co-offender: FORDHAM	PG (12.5%)	22y NPP 16y		Nil	Stabbing Intent to kill	SNPP 20 years Female offender - arranged murder of ex-partner – victim became frustrated at offender's lack of response and sent threatening SMS messages – disproportionate response to threats due to heavy cannabis consumption – meticulously planned killing with male friend – lured victim interstate – multiple stab wounds inflicted by co-offender – both offenders inflicted final stab wound – instigator of plan – above mid-range Abusive childhood – smoking marijuana by 12y – remorse – two young children
11.	BH (17) [2009] NSWSC 358 Hidden J	PG (25%)	17y NPP 13y		Disturbing record – includes AR and Rob in Co – breached probation	Assault Felony murder	SNPP 20 years Assaulted 23y homeless male with garden stake outside Town Hall – intended to rob victim of poker winnings – below mid-range Troubled childhood – sexual abuse – early substance abuse – remorse – gaining insight – reasonable prospects of rehabilitation

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12.	WILKINSON (No.5) (28) [2009] NSWSC 432 Johnson J	PG Murder Arson	28y NPP 21y 6y NPP 4y 6m <u>Total:</u> 28y NPP 24y		Nil prior – subsequent assault	Unknown Intent to kill	SNPP 20 years Killed pregnant lover to prevent complications to marriage – circumstances of killing unclear – body never found – took phone and made phone calls to leave false trail – set fire to house and blamed victim – supplied multiple false accounts to police - murder above mid-range – arson towards top of range No contrition or remorse – aboriginal liaison officer with police force – onerous custodial conditions
13.	WHITMORE (26) [2009] NSWSC 520 Adams J [2010] NSWCCA 157	VG	14y NPP 10y	Conviction AD Crown AD	Minor record for assaults and property damage	Stabbing Common purpose	SNPP 20 years Female offender – male victim stabbed in back during argument with neighbours over dogs – unclear who inflicted fatal stab wound – offender and brother emerged from house in response to comment made by victim – sentenced on basis adverted to possibility lethal blow could be inflicted by someone with intent to kill or inflict gbh – significantly below mid-range - brother sentenced for manslaughter History of alcohol and drug abuse
14.	WALSH (69) [2009] NSWSC 764 McCallum J	PG 2 x Murder Murder Att murder	Life 20y NPP 15y 16y NPP 12y		Nil	Assault, stabbing and drowning Intent to kill	SNPP 20 years / 25 years Grandfather hit wife with hammer and stabbed her to death – drowned 5y granddaughter in bath – assaulted 7y grandson with hammer then drowned in bath – bodies placed in bed – killed dog – children in care of grandparents while mother at work – lied to school about children being ill – assaulted daughter with axe when she returned– brain and skull injuries – planning and premeditation – high degree of violence - no explanation for killings – murder of wife mid- range – assault on daughter well above mid-range No mental illness
15.	MEHTA (42) [2009] NSWSC 814 Grove J	PG Murder Murder	30y Life		Assault on first wife – strangling and threat to kill	Strangulation Intent to kill	SNPP 20 years / 25 years Strangled wife during argument – verbal threats and physical assaults made previously – killed 9y step daughter to prevent her reporting killing to police – method of killing unclear – threw bodies over cliff in Blue Mountains – discovered by bushwalkers four weeks later – lied to police – had son assist in deception - killed wife for financial reasons No evidence of remorse or rehabilitation

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16.	VALIUKAS (33 at offence – 43 at sentence) [2009] NSWSC 808 Hulme J	VG	18y NPP 13y 6m		nil	Strangled	(1999) - Strangled former partner in her home during argument –volatile relationship – suffering dissociative episode at time of killing – visions of violent father and person who molested him as a child – not fully aware of acts - spontaneous offence - took body and children to mother's house and hid body in shed – lied about disappearance of victim – confessed to police 9 years later – offence below mid-range Prior good character – difficult custodial conditions
17.	RAAD (41 at offence – 49 at sentence) [2009] NSWSC 830 Rothman J [2011] NSWCCA 138	PG (25%) Armed robbery	14y NPP 10y 6m FT 5y (concurrent)	AA 12y NPP 9y FT 5y	Lengthy record	Shooting Felony murder	(2001) - Robbed and killed security guard – shot during struggle – killing not deliberate –elements of planning for robbery Voluntarily surrendered to police 6.5y later – significant Ellis discount – would not have been charged without admission – profound remorse - dysfunctional childhood resulting in life on streets and drug addiction – significant transformation and rehabilitation
18.	CARR (18) [2009] NSWSC 995 McClellan CJ at CL	PG (15%)	16y NPP 12y		Lengthy criminal record including violence – breached conditional liberty	Stabbing Intent GBH	SNPP 20 years Single stab wound to chest of male acquaintance outside party – spontaneous offence – earlier argument inside house – offence moderately below mid-range Aboriginal - under influence of alcohol, ice and cannabis – severe drug addiction – deprived background
19.	SW (No.3) (34) [2009] NSWSC 1043 Hulme J [2013] NSWCCA 103	VG	Life	AA 40y NPP 30y	Nil	Starvation – neglect	SNPP 25 years Mother of 7y daughter who died as a result of starvation and neglect – daughter suffered developmental delay and autism – left in bedroom in unhygienic conditions - worst case Drug use – difficult personal history including possible domestic abuse within relationships – expert psychiatric evidence identified abnormal personality traits Father [BW] sentenced for manslaughter. On appeal: in view of expert psychiatric evidence did not come in worst case category

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20.	NAA [2009] NSWSC 1077 Howie J	VG Murder AOABH PG Use off weapon to prevent lawful appreh	23y NPP 17y 3m FT 22m FT 3y 3m (concurrent)		Drug related offences	Stabbing Intent to kill	SNPP 20 years Staying with ex-partner – followed victim into grandparents' house and stabbed her in stomach – lifted her head and slit side of neck with knife although wound not life threatening – pushed over grandmother and threatened grandfather – history of domestic violence – standoff with police over three hours threatening them with knives – attempted suicide by calling on police to shoot him – slightly below mid-range Intoxicated and suffering depression – brain injury made him more susceptible to effects of alcohol
21.	COX (26) [2009] NSWSC 1067 Hulme J	PG (25%) Murder Sched: AOABH	18y NPP 13y 6m		Lesser offences and no custody – breached bail for assault offences	Assault Intent GBH	SNPP 20 years Assaulted 47y male neighbour outside unit while both intoxicated – antagonism continued some hours later and claims victim admitted being a paedophile – entered neighbouring unit through widow and assaulted victim with truck wrench – intended only to strike body although unit very dark – spontaneous offence – just below mid-range Suffering depression since death of step-son – intoxicated – some remorse – good prospects of rehabilitation provided address anger and drinking problems
22.	WILLETTS (37) GURNEY (29) [2009] NSWSC 1201 Latham J [2011] NSWCCA 48	PG (15%) Murder Arson PG (20%) Murder	25y 6m NPP 19y FT 2y (concurrent) 24y NPP 18y	AD	Conditional liberty – drug related record Conditional liberty – drug related record	Stabbing Intent to kill	SNPP 20 years Joint criminal agreement to kill formed immediately before the fatal assault – attacked male acquaintance in his home – stab wound to the chest – assault commenced in yard and victim taken inside – penis amputated and numerous wounds to body - set alight – steps taken to conceal weapons – markedly higher than mid-range G had been sexually assaulted by victim as a child and was dissatisfied with drugs supplied by victim – offer of assistance – suffering drug abuse and mental disturbances at time of offence W no motive for attack but not involved in mutilation of body – drug abuse

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23.	FAULKNER (40) [2009] NSWSC 1171 Howie J	PG (15%) Murder Manslaughter	20y 3m NPP 16y 4y 3m NPP 3y <u>Total:</u> 23y 3m NPP 19y		Offences of violence	Stabbing Intent to kill	SNPP 20 years During argument with caretaker of boarding house pushed victim down stairs – unlawful and dangerous act – spontaneous offence – low range – fit of anger Three years later stabbed partner – broke into house after she asked him to move out – threatening to call the police - 16 stab wounds – stabbed himself in stomach – upper end of mid range Some mental impairment
24.	DENNIS (19) [2009] NSWSC 1357 Barr AJ [2012] NSWCCA 120 [2015] NSWCCA 61	VG	26y 8m NPP 20y	Conviction AD Sentence AD	Nil	Assault Intent GBH	SNPP 25 years Assaulted 23m son of girlfriend while in his care – hit head with blunt instrument or forced head against wall – placed child back in cot – spontaneous offence – circumstances of offence unclear Exemplary character – reasonable prospects of rehabilitation – protective custody
25.	BENNETT (47) [2009] NSWSC 1382 RA Hulme J	PG (25%)	18y NPP 13y 6m		Minor record – breached bond	Assault Intent to kill	SNPP 20 years Assaulted female lover with a hammer multiple times to head in remote location – circumstances and motive for killing unclear – buried victim in shallow grave – lower end of mid-range
26.	PFITZNER (26) [2009] NSWSC 1267 RA Hulme J [2010] NSWCCA 314	PG (15%)	25y 6m NPP 19y 2m	AD	Breached suspended sentence for mal inflict GBH in company – other offences	Asphyxiation Intent GBH	SNPP 25 years Female - mistreated, abused and assaulted 2y son over long period of time – murdered victim by asphyxiation although actual method of killing unclear – wrapped body in plastic, placed in suitcase and threw in nearby pond – spontaneous offence giving in to anger and influenced by several factors and pressures – had declined to give up victim to custody of mother or DOCS despite asking for help – aware victim about to be returned to lawful guardian - slightly below mid-range. Displayed appropriate parenting to two other children

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27.	TRAN (26) [2009] NSWSC 1437 Mathews AJ [2011] NSWCCA 116	VG	26y NPP 20y	AA 24y NPP 18y	Lengthy record	Stabbing Intent GBH	SNPP 20 years During argument over money stabbed male acquaintance – victim owed family of offender considerable amount of money – fight initiated by offender – spontaneous killing although armed with knife and accompanied by friend – below mid range seriousness on appeal Difficult childhood – long term drug abuse

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