

Murder: Reckless Indifference

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.	CALLEJA (17) NSWSC 19.7.1991 Slattery AJ	VG Murder PG Rob 2 x Obtain by deception	MT 15y AT 5y		long record armed robbery, kidnapping	strangulation reckless indifference	Robbery - tied elderly lady up in house - took chequebook and withdrew money. Escapee at time of offence.
2.	AINSWORTH (24) NSWSC 9.12.1991 Hunt CJ at CL (1994) 76 A Crim R 127	VG	MT 12y AT 4y	AD	nil	shooting reckless indifference	Shot victim in chest at close range - jealous confrontation
3.	GILL (18) NSWSC 9.2.1993 Mathews J	VG	MT 10y 6m AT 6y 6m		very minor	assault reckless indifference	Affected by liquor - assaulted girlfriend - kicked 27m old stepson, picked him up by ankles and threw to ground.

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4.	IGNJATIC (1993) 68 A Crim R 333	VG Murder AOABH	Life (pre-Sentencing Act)	AA MT 15y AT 5y		shooting reckless indifference	Drive by shooting at night club.
5.	HOLTON (25) [2002] NSWSC 775 Davidson AJ [2004] NSWCCA 214	VG Sched: 5 lesser offences	16y NPP 12y	Crown AD	extensive, although nothing as serious	Driving Reckless indifference	While driving stolen vehicle passenger committed bag snatch - subsequently became involved in high speed police pursuit - struck police officer attempting to stop car by placing road spikes and stick on road Troubled childhood - sexually assaulted – remorse
6.	ELETER (24) [2002] NSWSC 1224 Dunford J	PG (20%) Sched: Agg AR	18y NPP 13y 6m		common assault and mal damage to property	Shooting Reckless indifference	With group attended brothel to take revenge for earlier fight between brother and worker at brothel - during argument fired 10 shots at window killing person in office area
7.	M.A. (17) [2003] NSWSC 978 Shaw J (2004) 145 A Crim R 434 [2004] NSWCCA 92	PG (15% on appeal)	13y 6m NPP 8y 6m	Crown AA 16y NPP 11y	Nil	Shooting Reckless indifference	During altercation with 18y male on street shot victim in chest at close range – unplanned and unpremeditated
8.	WHITE (34) [2005] NSWSC 667 Studdert J	PG (10%) Sched: 5 Break and enter offences	24y NPP 18y		Dishonesty and violence – breached bail	Assault / asphyxiation Reckless indifference	SNPP 20 years Broke into home of 82y widow – victim assaulted, bound and gagged – believed victim would die if not found Aboriginal with disrupted childhood and drug addiction
9.	JALATY (30-31) [2006] NSWSC 675 Grove J	VG Murder Mal admin noxious thing	20y NPP 15y FT 5y (concurrent)		Not relevant	Ingestion of methadone Recklessness	SNPP 20 years Female dosed 3y daughter with methadone causing cardiac respiratory arrest – 3 months later dosed daughter again causing death – attempting to control behaviour and keep child asleep during liaison with male friend Difficult life with rape, forced marriages and serious back injuries from car accident – acute loneliness – drug addiction from back injuries – protective custody – chronic back pain

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10.	ATAI (18) [2011] NSWSC 1617 Grove J [2014] NSWCCA 210	VG	24y NPP 18y	AD	Custodial record	Shooting Recklessness	SNPP 20 years Approached house with group of men – fired shots into front window of house killing occupant after being advised had wrong house – motive for approach to house and shooting unclear Afghani refugee with links to bikie gang
11.	HENZON (26) [2012] NSWSC 726 Hidden J	PG (25%) Murder 2 x obtain by deception Sched: 2 x obtain by deception	18y NPP 13y FT 18m <u>Total</u> 19y 6m NPP 14y 6m		nil	Suffocation Reckless indifference	SNPP 20 years Female bank teller stole \$16,000 from account of husband and wife customers – subsequently stole \$115,000 from account of 72y female bank customer – admitted to suffocating customer in home unit – circumstances of killing unclear Suffering long-term physical illness
12.	MITCHELL (37 at offence – 62 at sentence) [2012] NSWSC 694 Hidden J	PG (25%)	14y NPP 10y		nil	Strangulation / suffocation Reckless indifference	(1987) during argument with de facto wife strangled her with pantyhose and suffocated with pillow – spontaneous offence and out of character On the run until voluntarily attended police station in 2011 – genuine remorse – good prospects of rehabilitation
13.	DEAN (37) [2013] NSWSC 1027 Latham J [2015] NSWCCA 307	PG 11 x Murder 8 x s.35(2) Larceny as a clerk	Life 8y NPP 6y FT 5y	AD	Nil	Arson Reckless indifference	SNPP 20 years Nurse lit two fires in aged care nursing home – lit fires to cover theft of painkiller medication to feed long-term drug addiction – while fire burning retrieved drug log books and destroyed them – deliberate actions in not alerting fire brigade to second fire or assisting residents to escape Personality disorder – poly substance abuse disorder.
14.	JUBRAEEL [2014] NSWSC 838 Rothman J [2015] NSWCCA 131	VG	17y NPP 12y	Conviction AD	AR	Shooting Joint criminal enterprise Reckless indifference	SNPP 20 years Approached home of victim at night with two co-offenders – victim pulled back curtain to investigate and shot dead by co-offender –intended BES with no violence - first aware of gun when gun drawn by shooter shortly before shooting - lowest end of range of seriousness – shooting based on reckless indifference to life Traumatic childhood upbringing in Iraq – personal drug use – testing revealed to be in 'intellectual disabled' range

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15.	KHAN (46) [2016] NSWSC 1073 Fullerton J	VG Murder 2 x Mansl s.35(2) s.35(4) s.197(1)(b)	<u>Indicative:</u> 30y NPP 22y 20y NPP 15y 5y NPP 3y 9m 2y 6m NPP 2y 8m 4y <u>Aggregate</u> 40y NPP 30y		Nil	Explosion Reckless indifference	SNPP 20 years Lessee of shop caused explosion intending to use insurance money to escape debts – killed male residing in unit above shop and mother and baby residing in unit above adjoining shop – two males also residing in unit above shop injured escaping explosion – manslaughter based on unlawful and dangerous act – murder above mid-range
16.	PERRY (24) [2016] NSWSC 1562 Mathews AJ	PG (12.5%)	17y 6m NPP 13y		Nil	Shooting Reckless indifference	SNPP 20 years Shot 18y male known to offender - following argument agreed to meet to fight – shot victim in neck – had firearm because he was concerned for his welfare, given abusive messages sent by victim to offender - spontaneous act not premeditated - intention to frighten victim away - acted with reckless indifference rather than intent - significantly below midline of objective seriousness. Good character – employed – supportive family – suffering serious spinal condition – special circumstances
17.	AS (46) [2023] NSWSC 1575 Wilson J	VG	18y NPP 12y 6m		Nil	Shaking Reckless indifference	SNPP 25 years Shook son, 9m old baby, causing severe brain injury that was the direct cause of death one month later – victim at home with offender – wife returned home to find offender holding victim unresponsive - lost temper, briefly shaking victim - admissions to neighbours immediately after incident, but has since never acknowledged what he had done. No remorse - good character, strong work ethic - rehabilitation prospects reasonably positive. Afghanistan background – trauma - Post Traumatic Stress Disorder.

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18.	DOWLING (35) [2023] NSWSC 1620 RA Hulme AJ	PG (25%)	22y 6m NPP 16y 10m		Significant – breached parole – includes personal violence	Assault Recklessness	SNPP 20 years Assaulted frail 65y male victim during sexual foreplay – ‘on and off’ relationship – degree of trust – forced dentures down throat of victim causing asphyxiation – left body in offender’s room in boarding house for four days – callous indifference – not pre-mediated but prior violence – context of domestic relationship Remorse not established – mental health and substance abuse issues – childhood trauma involving exposure to substance abuse, violence and sexual abuse

Last Updated: December 2023

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