

Manslaughter

Assault - Domestic

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.	Low (1991) 57 A Crim R 8	Diminished responsibility Provocation Assault - domestic	VG	Bond	Crown AA MT 2y AT 2y		Killed fiancée with claw hammer after she attacked him - brain damage as result of attack by victim with hammer
3.	Harris NSWSC Abadee J 7.3.1991	Unlawful and dangerous – assault Assault - domestic	PG	MT 5y AT 1y 8m		no violence, drug related	Punched and kicked de facto in street because she kept falling over while intoxicated Alcohol problem for both offender and victim
4.	Shephard NSWCCA 15.7.1991	Diminished responsibility Assault - domestic	PG	MT 4y AT 16m	AD	Nil significant	Killed wife with hammer No previous violence towards wife - brain damage resulting from alcohol abuse
5.	Bailey NSWSC Hunt J 18.9.1991	Unlawful and dangerous - assault Drowning Assault - domestic		MT 3y AT 1y (discount for assistance)		minor	Co offender Norton convicted of murder - assaulted flat mate on beach and dragged him to water - died from drowning Alcoholic - 33% discount for assistance to authorities

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6.	Moore NSWCCA 4.11.1991	Assault - domestic	VG	MT 5y AT 1y 8m	AD	priors	Killed de facto by punching or elbowing Aboriginal male - intoxicated at time
7.	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
8.	Kecseski (33) NSWCCA 10.8.1993	Diminished responsibility Assault - domestic	VG	MT 10y AT 3y 4m	AD	no significant	Broke into house and bashed ex-girlfriend to death with glass decanter Depressive illness
9.	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
10.	Haynes NSWSC Studdert J 25.3.1994	Diminished responsibility Victim under 18y Assault – domestic	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
11.	Sempel NSWCCA 31.3.1994	Young child 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
12.	Forsyth (20) NSWSC Finlay J 26.7.1994	Diminished responsibility Assault – domestic	PG	MT 4y AT 4y			Bashed / strangled girlfriend's mother Brain damage caused by assault - loss of self-control

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13.	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.
14.	Pavia NSWCCA 9.12.1994	Provocation Assault - domestic	VG	MT 9y AT 3y	AA MT 7y AT 3y	nil	Intense but turbulent homosexual relationship with victim - bashed victim with barbell and statuette - previous assaults on victim
15.	Nelson NSWCCA 25.6.1996	Provocation Assault - domestic	PG	MT 8y AT 6y	AA MT 6y AT 4y		Female - with brother bashed boarder in house believing he had molested offender's daughter - assaulted at house, then taken to deserted country area and brother continued assault with metal baseball bat Brother pleaded guilty to murder
16.	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
17.	Carlson NSWCCA 25.11.1996	Diminished responsibility Assault – domestic	PG	MT 11y AT 5y	AD	long record, bond for DV	Assaulted de facto wife - substantial number of blows - violent relationship characterised by alcohol abuse - some provocative statements from victim prior to attack Permanent brain damage from car accident and alcohol - reduced self control
18.	Isaacs (24) (1997) 41 NSWLR 374 (1997) 90 A Crim R 587	Provocation Assault - domestic	VG	MT 5y AT 4y	AD	nil	Woke from sleep and beat violent flatmate with dowel

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19.	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
20.	Williams NSWSC Adams J 30.11.1998 [2000] NSWCCA 136	Unlawful and dangerous - assault Assault - domestic	VG (at murder trial)	MT 6y AT 2y	AD	prior assault on mother	Struck frail and elderly mother about face and head at home while intoxicated No significant remorse or contrition
21.	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
22.	Robson [1999] NSWSC 855 Barr J	Unlawful and dangerous - assault Assault - domestic	PG	MT 3y AT 2y		assault, minor drugs	Assaulted victim in company to “teach him a lesson” for taking wife's car and damaging it - victim had lived with offender and his wife for a time – intoxicated Good prospects of rehabilitation - married with large and supportive family – drug problems
23.	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

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24.	Nguyen (mid 40s) [1999] NSWCCA 333	Unlawful and dangerous - assault Assault – domestic	PG Mansl Kidnapping 2 x Mal discharge rifle Sched: 6 x discharge firearm	MT 6y AT 4y FT 4y FT 4y (all concurrent)	AD	nil	Went to ex-girlfriend's house armed with rifle to confront her about money owing - tied up sister and mother - siege developed when police arrived, and gunfire exchanged - mother died from asphyxiation caused by being gagged and rib broken
25.	Nardoni (26) [1999] NSWSC 1097 Grove J	Unlawful and dangerous - assault Assault - domestic	PG	MT 2y AT 3y (PSC 1y)		assault, mal injury, nuisance offences	Assaulted de facto wife - died of head injuries next morning Violent relationship - alcohol and drugs
26.	Wilson (40) [1999] NSWSC 1235 Newman J	Unlawful and dangerous - assault Drowning Assault - domestic	PG	3y GBB		Nil	Assaulted father on boat then threw body overboard wrongly believing him to be dead - father drowned - assault in response to threats made by father against offender's girlfriend - father violent record, on bail for conspiracy to murder Good character - service in Naval Reserve - early acknowledgment of guilt - genuine remorse - suffering abnormality of mind at time of offence
27.	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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28.	Bateman [2000] NSWSC 867 Barr J	Substantial impairment Assault - domestic	PG	5y GBB		nil	Killed wife of 51y bashing her to death with hammer while asleep - both offender and wife ill – offender suffered major depression after house damaged by hailstones Deep remorse - condition of bond to continue with treatment program
29.	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
30.	Vandersee (47) [2000] NSWSC 916 James J	Provocation Assault – domestic	VG (at murder trial)	8y NPP 5y		nil	Bashed sleeping husband to death with blunt end of a tomahawk or axe - provoked by domineering, controlling and cruel behaviour of victim over many years - medium degree of provocation Suffering mild depression at time of offence - made immediate admissions to police
31.	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
32.	Munro (20) [2000] NSWSC 1225 B-Parker AJ [2001] NSWCCA 187	Unlawful & dangerous - assault Assault – domestic	VG (at murder trial)	3y NPP 11m 28d	Conviction AD	Minor	Bashed male neighbour to death with cricket bat - victim and brother approached offender's house in early hours of morning and attempted to assault offender with cricket bat - offender obtained bat in struggle and hit victim several times on verandah and on ground - no longer acting in self-defence when fatal blows inflicted Suffering severe epilepsy
33.	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

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34.	Hawkins (76) [2001] NSWSC 420 O'Keefe J	Substantial impairment Assault – domestic	PG (25%)	3y NPP 2y		nil	Strangled wife of nearly 50 years – suffering depression - adverse reaction to overdose of Zoloft (anti depressive medication) Offence completely out of character - excellent personal and family history - remorse - voluntarily surrendered to police - considered suicide but concerned about effect on daughter
35.	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
36.	Fox (33) [2001] NSWSC 573 Grove J	Unlawful and dangerous - assault Assault - domestic	PG	5y NPP 2y		no prior convictions	Female - attempted to wake up de facto by kicking him in head - intoxicated at time - shoeless – no recollection of events Aboriginal or Pacific Islander female - life of considerable tragedy - lifetime addiction to alcohol - truly remorseful - needs further assistance before release
37.	Bartlett (51) [2001] NSWSC 685 Hidden J	Substantial impairment Assault – domestic	PG	8y NPP 4y		nil	Struck victim with hammer several times during altercation in boarding house room Personality disorder with schizotypal traits and chronic depression
38.	Cooper (21) [2001] NSWSC 769 Simpson J	Infanticide Young child Assault - domestic	PG	4y GBB			Female - smothered 7 month old daughter – also had 2y old at time of killing - difficult and abusive childhood - suffering depression prior to and after birth of all children - unable to cope with responsibility.
39.	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

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40.	Ladd (41) [2001] NSWSC 1055 James J	Provocation Assault - domestic	PG (20%)	10y NPP 7y		1977 murder of female in WA, AOABH	Saw friend in bed with offender's 9y son - struck victim with wine bottle over head and punched him several times in head Single parent of no fixed abode – binge drinker – almost completed science degree while in custody – anger management issues
41.	Lever (36) [2001] NSWSC 1131 Bell J	Diminished responsibility Assault - domestic	VG (at murder trial - 'credit' for offer to plea)	10y NPP 6y [8m PSC]		prior serious assaults on wife although lengthy gap until onset of illness	(1996) Bashed wife to death inflicting 200 blows - used body, strap and baton to inflict blows - severe and horrific assault - suffering from delusional disorder - intent to inflict GBH Called ambulance and found grieving and contrite - Aboriginal male - excellent standing in community - much hope for rehabilitation
42.	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
43.	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 male.
44.	Tindall (35) [2002] NSWSC 1108 Hidden J	Provocation Assault - domestic	PG	5y 6m NPP 2y 6m		minor assault matters	Assaulted brother with hammer over head - victim acquitted of murder of father - offender chief Crown witness - subsequent to trial victim harassed offender for 5 months with physical abuse and threats - grave and cumulative provocation
45.	Tran (25) [2003] NSWSC 373 Greg James J	Unlawful and dangerous – assault Assault – domestic	PG	5y NPP 2y 3m		Nil	Went to bed with partner – both intoxicated – killed partner during night possibly by suffocation – verging on automatism due to intoxication and sleep disorder – vague as to details – disposed of body – lower end of culpability Prior good character – good prospects of rehabilitation – Vietnamese

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46.	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
47.	McNamara [2003] NSWSC 429 Hidden J [2004] NSWCCA 42	Unlawful and dangerous - assault Assault – domestic	VG (at murder trial)	9y NPP 6y 6m	Crown AD	AOABH and mal inflict GBH (de facto) – on bail	Killed mother by brutal assault – history of arguments over estranged de facto and access to children Risk of re-offending
48.	Scott (41) [2003] NSWSC 627 Whealy J	Excessive self defence Assault - domestic	PG (15%)	5y NPP 2y 6m		Minor/irrelevant	Female hit de facto husband on head 5 times with heavy iron – victim threatened offender with knife – buried body in backyard and claimed de facto left Suffering depressive illness at time of offence – would have responded to threat with acute and intense emotions of fear, anxiety and apprehension – prospects of rehabilitation
49.	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
50.	KMB (32) [2003] NSWSC 862 Bell J [2005] NSWCCA 185	Provocation Assault - domestic	VG (at murder trial)	6y NPP 3y 6m	AD	Nil	Female – prolonged assault on Uncle who admitted sexually interfering with offender's children – intent to inflict GBH – offender caring for victim whose mental health deteriorating Mother to 3 young children – prior good character – good prospects of rehabilitation
51.	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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52.	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
53.	Walsh (32) (2004) 142 A Crim R 140 [2004] NSWSC 111 Howie J	Provocation Assault – domestic	VG (at murder trial – 15% for offer)	7y 3m NPP 5y 6m		Lengthy record including violence	Became involved in violent struggle with male acquaintance staying at offender's premises – struck victim to head with hammer 8-9 times – victim aggressive all evening – substantial provocation – body dismembered and dumped in river – attempt made to cover offence Poor health
54.	Williams [2004] NSWSC 189 O'Keefe J [2005] NSWCCA 99	Provocation Assault - domestic	VG (at murder trial)	14y NPP 10y 6m	AA 12y NPP 9y	Lengthy including violence	Bashed de facto wife with heavy metal weight lifting bar – low level of provocation – hid body in bushland – returned and re-hid body in another area No remorse – future dangerousness
55.	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 male - childhood history of physical and emotional abuse – borderline personality disorder
56.	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
57.	Daniels (38) [2004] NSWSC 1201 Hidden J	Unlawful and dangerous - assault Assault - domestic	VG (at murder trial)	8y NPP 5y		Minor offences – breached bond	Sustained assault on partner in home – forced head into wall causing brain injury Mental health problems in custody

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58.	Hamoui [No.4] (27) [2005] NSWSC 279 Kirby J	Provocation Assault – domestic	VG (at murder trial)	11y NPP 8y		Serious offences involving violence – breached bail	Strangled girlfriend and left body in car – circumstances of killing not clear – victim bound at some stage – intent to kill – gratuitous cruelty – victim’s relationships with other men probable provocation Physically and emotionally abused as a child – no contrition but evidence of rehabilitation in jail – resumed religious studies – engaged to sister of another inmate – possible mental illness
59.	Nicol (86) [2005] NSWSC 547 Hulme J	Substantial impairment Assault – domestic	PG	2y NPP 1y Suspended		Nil	Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill Elderly couple with many health problems – depression – genuine attempt at suicide
60.	Percy (36) [2005] NSWSC 1244 Latham J	Unlawful and dangerous - assault Assault – domestic	PG (15%)	9y NPP 5y		Property and motor vehicle offences	Victim lured to home of acquaintance – repeatedly struck by offender causing death – legs and arms bound and body dumped in truck rest stop – assault in retaliation for belief that victim had raped offender’s partner’s daughter and stolen property Difficult childhood - drug and alcohol user – genuine contrition
61.	Massei [2005] NSWSC 1030 Adams J [2006] NSWSC 1298 Adams J	Substantial impairment Assault – domestic	PG (25%)	Sentencing initially deferred for 12m 5y 6m NPP 2y 9m 14d			Awoke during night and struck wife with glass ornament – placed sufficient pressure on throat to break bone – doused victim with accelerant and set fire to unit – cause of death probably suffocation or asphyxiation – victim died before burned by fire Suffering chronic and severe depression – Argentinian – separated from wife but on good terms – attempted suicide after lighting fire
62.	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
63.	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

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64.	Tekley Nagle [2007] NSWCCA 75	Unlawful and dangerous - assault Assault – domestic Accessory (Nagle)	VG Mans Unlawful imprisonment VG Mans Unlawful imprisonment	6y NPP 3y 9m FT 6m (concurrent) 5y NPP 2y 9m FT 6m (concurrent)	Conviction AD Sentence AD Conviction AD		Flatmate became increasingly violent and threatening – handcuffed to chair – fatally assaulted by T Delay
65.	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	Killed de facto's 7m son by shaking – isolated anger against crying child – warned he could injure child – breach of trust Aboriginal male - disrupted background – drug abuse – immaturity - remorse
66.	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
67.	Stephenson (43) [2007] NSWSC 672 Hidden J [2008] NSWCCA 266	Unlawful and dangerous - assault Assault - domestic	PG	6y NPP 3y 6m	AD	Minor	During verbal argument punched female partner to head with closed fist several times – spontaneous offences – both victim and offender consumed drugs and alcohol during evening Volatile and obsessive relationship – drug and alcohol abuse – offence out of character – prospects of rehabilitation - remorse
68.	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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69.	Ferguson (45) [2007] NSWSC 949 Grove J	Unlawful and dangerous - assault Assault - domestic	PG (25%)	5y 3m NPP 4y		Nil relevant	Fatal assault on de facto wife during physical argument – arguing for several days over victim's abuse of prescription drugs – drug abuse made victim more vulnerable to physical assault Good character – very good prospects of rehabilitation – genuine remorse
70.	Hansell (31) [2007] NSWSC 1136 Latham J	Excessive self defence Assault – domestic	PG (15%)	3y 4m NPP 2y		Nil relevant	After evening of drinking with friends victim turned violent and seriously assaulted offender's brother and wife – offender held victim around neck blocking airway – intent to restrain not choke – element of punishment and recklessness – lower end of scale of seriousness Good character – married with daughter – genuine remorse
71.	Thurlow (20) [2007] NSWSC 1203 Mathews AJ	Unlawful and dangerous - assault Assault – domestic Victim under 18y	PG (25%) Mansl Att pervert course of justice Sched: Att pervert course of justice	6y 9m NPP 4y 3m 16m NPP 9m <u>Total:</u> 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
72.	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
73.	Frost [2008] NSWSC 220 Barr J	Provocation Assault – domestic	PG	6y NPP 3y 6m		Nil	Ex-wife visited from Philippines and asked to take youngest daughter back for purpose of prostitution – choked ex-wife – panicked and buried body – left trail suggesting victim returned to Philippines

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74.	Zammit (55) [2008] NSWSC 317 Howie J	Unlawful and dangerous – assault Assault - domestic	PG (20%)	6y 3m NPP 4y		Priors including violence	After night of drinking became angry with de facto and pushed her against refrigerator – victim appeared injured but declined assistance – argument continued next morning and victim thrown against cupboard – assistance again declined – died several hours later – fractured ribs and neck bone – victim and offender both intoxicated Alcohol abuse – childhood abuse- serious health issues
75.	Stevens (40) [2008] NSWSC 1370 Hall J	Provocation Assault - domestic	PG (20%)	8y 9m NPP 6y 7m		Some assault	Killed de facto wife – spleen injury caused abdominal bleeding – evidence of other injuries – both had history of drug addiction – under influence of prescribed medication at time of killing – unpremeditated offence – low level of provocation from victim's drug addiction and failure to properly care for children
76.	Fisher (36) [2009] NSWSC 348 Adams J	Substantial impairment Assault - domestic	PG (10%)	5y 6m NPP 3y		Minor assaults	Fatal assault of mother at home – circumstances and motive unknown – some history of violence against mother when angry or intoxicated – mother primary carer of offender after car accident caused major brain damage Remorse limited by mental capacity – difficulty in prison – continued danger to community
77.	Paddock (78) [2009] NSWSC 369 Rothman J	Substantial impairment Assault – domestic	PG (20%)	6y NPP 4y 3m		Nil	Suffocated 70y partner preparing to move out – attempted to kill self – mid-range – significant impairment Paranoia and early dementia
78.	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
79.	Nguyen (No.2) (29) [2009] NSWSC 1120 Hoeben J	Substantial impairment Assault – domestic Victim under 18y	VG Manslaughter Manslaughter	5y NPP 3y 5y NPP 3y <u>Total</u> 6y NPP 4y		nil	Vietnamese mother killed 5y son and 3y daughter – attempted to kill children with rat poison – suffocated both children then took poison herself – made several unsuccessful attempts at suicide - distressed at husband's infidelity and leaving relationship – severe depression – killings had an element of retribution although primarily altruistic Severe depression - genuine remorse

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80.	Gloginya (41) [2009] NSWSC 1435 McCallum J	Unlawful and dangerous Assault – domestic	PG (10%)	7y 8m NPP 4y 9m		Record for lesser offences of violence – no offences since 1998	Shared residence as carer for 56y male victim – difficult relationship and offender had taken recent steps to end responsibilities – spontaneous offence – Strangled victim although circumstances of killing unclear Suffering brain injury
81.	Gabriel (64) [2010] NSWSC 13 Price J	Provocation Assault - domestic	VG (at murder trial – 10% for offer)	9y 3m NPP 6y 3m		Nil	Struck wife to head with skutch hammer – history of arguments with wife and suspected infidelity on her part – degree of provocation not high – threatened by wife with knife – extreme degree of violence – element of self defence Also suffering early dementia, depression and underlying conditions – remorse – poor health
82.	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
83.	Glanville (27) [2010] NSWSC 364 James J	Substantial impairment Excessive self defence Assault - domestic	VG (at murder trial – some discount for offer)	6y 8m NPP 5y		Not significant	Assaulted male acquaintance with baseball bat after victim forced entry into house – both intoxicated having been drinking together earlier – victim loudly and abusively seeking entry to unit – weakened arm and frontal lobe damage influenced perception of threat – mental functioning so affected as to constitute substantial impairment of the mind - brain damage Mental health and drug problems
84.	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.

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
85.	Cavanagh [2010] NSWSC 670 Rothman J	Substantial impairment Assault – domestic	VG (at murder trial – 25% for offer)	9y NPP 5y		nil	Strangled mother with extension cord - separated from wife and children – victim loaned money to offender to assist with keeping his home for children – home transferred into victim's name – relationship between victim and offender deteriorated – victim suffering from early dementia – offender suggested they move into separate premises – victim responded by telling offender and children to leave - offender attacked victim – brutal killing – approaches but not in worst category Major depressive illness from marriage breakdown and access to children – good character – good rehabilitation prospects – remorse
86.	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 male - difficult childhood – drug and alcohol abuse
87.	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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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
88.	NR (16) [2011] NSWSC 280 Garling J	Unlawful and dangerous - assault Assault – domestic Juvenile offender	VG (at murder trial – 25% for offer)	7y 6m NPP 4y 6m		nil	Struck 19y male sitting on chair in abandoned house from behind with piece of wood to head – angered at relationship between victim and offender's ex-girlfriend – intended to have fist fight – picked up piece of timber close to entering house and while in distressed state of mind – became distressed prior to offence when realised close friend had died traumatically in area - unusual strength and hardness of wood not known to offender – intended to provoke fight not cause serious injury - panicked and refused to allow ambulance to be called for 30mins – offence involved a weapon and was committed in presence of others aged under 18y Remorse – very good prospects of rehabilitation
89.	Mathers [2011] NSWSC 339 Hall J	Substantial impairment Assault - domestic	PG	2y suspended sentence		Nil	Assisted partner to commit suicide - ingestion of amitriptyline tablets and final act of suffocation - long relationship of 22 years – victim suffered pain from spinal condition and expressed wish to die in suicide note – participation would not have been discovered but for offender's disclosures to police – suffering depressive illness/adjustment disorder - only motive was to assist victim carry out her express intention - no lengthy period of planning or premeditation - culpability at low end of range of sentences for manslaughter - leniency due to disclosures, confession of guilt and plea of guilty
90.	Li (22) [2012] NSWSC 477 Adamson J	Unlawful and dangerous – assault Assault – domestic	PG (25%) Mansl Agg Rob 8 x Obtain money by deception	10y 6m NPP 7y FT 6y FT 1y <u>Total</u> 12y NPP 8y 6m		Nil	63y male met with offender for sexual encounters on various occasions – male found at home bound and gagged - died by asphyxiation – offender had beaten and bound victim and left him abandoned – taken ATM cards and made number of withdrawals totalling \$7k – did not check to see whether victim was alright Student from China - support from family.
91.	Braddon (36) [2012] NSWSC 662 Hidden J	Unlawful and dangerous - assault Assault - domestic	PG (20%)	5y 6m NPP 3y		Not relevant	Assaulted neighbour with piece of wood. Mental illness - bipolar disorder – reasonable rehabilitation prospects - remorse

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
92.	McCann (67) [2012] NSWSC 1462 Barr AJ	Excessive self defence Assault – domestic	VG (murder trial)	7y NPP 3y 6m		Nil	Strangled boarder staying at offender's home with nylon cord after argument – offender disliked and feared victim – mental issues gave rise to increasingly erratic behaviour by offender Depression / bipolar – prior good character.
93.	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
94.	Kain [2013] NSWSC 638 Adams J	Unlawful and dangerous - assault Assault - domestic	PG (25%)	6y 9m NPP 4y		Nil	Strangled mother following argument – had lived together – immediately called sister and confessed Offence out of character - offender suffered dementia - state of mind likely to have prevented him truly appreciating likely outcome of his actions - cognitive impairment caused by brain damage caused delay in processing information – dementia caused loss of control in extent of violence inflicted
95.	Salcedo (24) [2014] NSWSC 1099 Adams J	Unlawful and dangerous Assault – domestic	VG (murder trial - 15% for offer)	4y NPP 2y		Record including low level violence – breached suspended sentence and bail	Pulled and twisted scarf on girlfriend as she tried to stop him leaving unit – caused compression of blood vessel but no other injury – moderate force only - very unexpected death – did not intend harm – no argument – victim amphetamines intoxication significantly contributed to death - well within lowest range History of psychotic symptoms and schizophrenia – drug use - reduced moral culpability and general deterrence but increased focus on personal deterrence
96.	Bryce (41) [2014] NSWSC 1184 Beech-Jones J	Unlawful and dangerous – assault Assault - domestic	VG (at murder trial)	8y NPP 6y		Lengthy record including conviction for assault on former partner – breached bond	Assaulted female partner in their unit - subdural haematoma – no evidence as to how injury caused – offender did not realise assault dangerous – failure to obtain medical assistance aggravating factor although not aware injuries life threatening Dysfunctional people in dysfunctional relationship – history of violence by both parties

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
97.	Merrick (No 5) (32) [2016] NSWSC 661 Wilson J [2017] NSWCCA 264	Unlawful and dangerous - assault Assault - domestic	VG (murder trial)	11y NPP 8y 3m	AD		Struck girlfriend with blow to the head - led to victim's death two weeks later – violent relationship Family support - hard-working background – prior good character
98.	Tikaram (38) [2016] NSWSC 1716 Harrison J	Substantial Impairment Assault – domestic	PG (25%)	6y NPP 3y			Killed father following argument – blunt force trauma to head and neck – both had been drinking – offender claimed victim taunting and baiting him - pattern of relationship for many years - history of physical altercations – low end of objective seriousness Schizophrenia - characterised by relapses of psychosis evidenced by auditory hallucinations, delusions and thought disorder - support of mother and family
99.	Toohey (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.
100.	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
101.	Errington (29) [2018] NSWSC 79 Adamson J	Unlawful and dangerous - assault Assault – domestic	VG (at murder trial – 35% for offer to plead and assistance)	8y 5m NPP 6y 4m		AR - robbery - firearm offences	Offender and girlfriend came to live with half-brother – offender's ice addiction caused serious tension with victim – following argument offender punched and assaulted victim with cooking pot causing loss of consciousness - hog-tied and gagged victim and left him in unit – returned two hours later to discover victim had died as a result of cardiac arrest or asphyxiation - did not contact police but made arrangements for escape - above mid-range but not in most serious category. Assistance – remorse – drug addiction Note: co-offender acquitted on appeal: [2019] NSWCCA 260
102.	Dowdle (57) [2018] NSWSC 240 Hamill J	Assault – Domestic Substantial Impairment	PG (25%)	3y NPP 2y		PCA	Female - killed adult son severely disabled from car accident – disability caused son to drink and be physically abusive towards mother over long period – received little support - administered sedatives then placed plastic bag over head Suffering major depressive disorder with underlying psychiatric conditions - remorse
103.	Ambrosius (50) [2018] NSWSC 1318 RA Hulme J	Excessive self defence Assault - domestic	PG (15%) Mansl Sched: AOABH on police officer	6y 9m NPP 3y 6m		nil significant	During physical altercation with 74y stepfather threw victim over balcony causing instant death – erroneously believed acting in self-defence – intent only to cause GBH - short struggle on arrest caused minor injuries to police officer - culpability reduced by abnormality of mind History of mental illness - schizophrenia
104.	Connors (29) [2018] NSWSC 1439 RA Hulme J	Substantial Impairment Assault - domestic	PG (25%)	5y 8m NPP 3y		nil	Offender bashed sleeping mother to death with hammer – had auditory hallucinations telling him to kill victim to save her soul. No prior violence to his mother before - exhibiting symptoms of mental illness for many years - schizophrenia – intellectually disabled - significantly reduced need for denunciation, retribution, personal or general deterrence – genuine remorse – low risk of reoffending – special circumstances

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
105.	ES (No.2) (33) [2018] NSWSC 1708 McCallum J [2019] NSWCCA 262	Unlawful and dangerous - assault Young child 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
106.	Hutchison (36) [2019] NSWSC 25 Hamill J Co-offender: WILKINSON	Excessive self-defence Substantial impairment Assault – domestic	VG (murder trial – 25% for early offer)	9y NPP 5y 6m		Nil	Female – brutal premeditated attack on ex-husband in company of new fiancé - tricked victim into returning home to extract confession victim had abused or mistreated their two children - victim struck and punched numerous times suffering broken nose - use of electric prod - offence committed in presence of 9y son - victim aspirated food into lungs and died of asphyxia – body placed in boot of car and dumped on roadside - precise roles of each offender not known though evidence shows this offender was major perpetrator - most serious example of manslaughter due to planning and premeditation of assault - intention to inflict GBH formed after attack while offender in a rage – offender's compromised mental state led to belief actions necessary to protect children due to allegations by children – excessive response - mother kills children's father Chronic mental health issues arising from early child sexual assault – drug abuse – difficult relationships
107.	Lees (41) [2019] NSWCCA 65	Motor vehicle Assault – domestic Unlawful and dangerous – misc	PG (10%) Mansl s.166 cert offences	16y NPP 12y 6m (concurrent)	AA 12y NPP 9y	Minor – breached two bonds	Female – deliberately drove at de facto standing several metres away – victim struck and dragged 30 metres under car – use of car as weapon – unplanned and spontaneous – no provocation – high range Difficult relationship – mental health issues On appeal: sentence manifestly excessive - failure to properly take into account mental health issues

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
108.	Wilkinson (39) [2019] NSWSC 235 Hamill J Co-offender: HUTCHINSON	Assault – domestic Accessory	VG (at murder trial – 25% for offer)	8y NPP 4y 9m		minor offences	Planned assault of partner's ex-husband to obtain confession to his assaults on son – victim lured to his own home where he was assaulted by co-offender – offender involved in assault to lesser extent - injuries and ligature caused asphyxiation – committed in company, in presence of victim's 9y son and in home of victim – panicked when victim died and dumped body by side of dirt road Prior good character – good prospects of rehabilitation - remorse
109.	Yardley (54) [2019] NSWCCA 291	Assault – domestic Unlawful and dangerous - assault	PG (10%)	3y 6m NPP 18m	Crown AA 6y 4m NPP 4y 9m	Limited – old drug offences, AOABH	Non biological brother of victim, both adopted by their parents – father died and left estate to victim – offender unhappy about handling of estate – went to victim's room, woke him punched him to face several times - unprovoked attack on defenceless person – aware of victim's medical conditions - victim suffered subdural haemorrhage CCA: error in assessment of objective seriousness - special circumstances not available
110.	Hong (62) [2021] NSWSC 1487 Hamill J	Substantial impairment Stabbing – domestic	PG (25%)	6y NPP 2y 6m		Nil	Stabbed wife of over 30 years in sudden and frenzied attack while babysitting grandchildren – over 40 stab wounds – suffering major melancholic depressive disorder – spontaneous offence – committed in daughter's house in proximity of children – use of weapon and violence – intent to kill Mental illness and covid restrictions impact custodial conditions – dangerousness – good character – good prospects of rehabilitation
111.	French (32 at offences; 41 at sentence) [2021] NSWSC 1531 Dhanji J	Unlawful and dangerous – assault Assault - domestic	PG (10%) Mansl Disposal corpse	9y NPP 6y 2y 8m NPP 2y <u>Total</u> 10y NPP 7y		Personal violence offences, AOABH, assault, destroy property by fire, aggravated sexual assault, detain with intent	Assaulted and killed female partner - concealed body - fatal assault culmination of assaults over a number of hours - where deceased's remains not found for five and a half years – deceased's disappearance subject of coronial inquest - history of domestic violence / personal violence offences against deceased. Background of deprivation - special circumstances.

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
112.	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.
113.	Songcuan (No.3) (73) [2023] NSWSC 183 Campbell J	Strangulation / choking Extreme provocation Assault - Domestic	VG (murder trial – 25% for offer)	7y 6m NPP 6y		Nil	Strangled wife who wrongly believed offender having affair – deceased aggressive and physically violent toward offender – offender felt he “had no choice but to silence her” - put arm around throat and his hand over mouth, applied pressure until deceased calmed down and stopped breathing - attempted to make scene look like a suicide with fake suicide note by deceased. Cumulative provocation over years by deceased, aggressive and controlling towards offender, with physical violence and threatening to kill him if unfaithful - provocation intensifying over short period up to killing, with degree of physical violence in minutes leading up to offender losing immediate self-control. Advanced age – good character.
114.	King (25) [2024] NSWSC 620 N.Adams J	Stabbing – domestic Excessive self defence	PG (25%)	6y 9m NPP 4y 3m		Mostly drugs and property offences – on bail for agg robbery	Stabbed sister's male partner during struggle – victim forced entry to sister's home and punched and hit her – in response offender struggled with victim, retrieving knife from kitchen and stabbing victim three time to side of body – intent to inflict GBH – domestic violence - high degree of aggression and violence shown by victim to sister – unplanned response of short duration – lower end of mid-range Genuine remorse – strong family support – reasonable prospects of rehabilitation – ice user – special circumstances

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115.	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

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