# Manslaughter

## Assault - Domestic

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

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| 1. | **Ditfort**<br>NSWSC<br>30.11.1989<br>Loveday J<br><br>NSWCCA<br>17.3.1992 | Victim under 18y<br><br>Assault - domestic | PG | MT 7y 11m<br>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**<br>(1991) 57 A Crim R 8 | Diminished responsibility<br><br>Provocation<br><br>Assault - domestic | VG | Bond | Crown AA<br>MT 2y<br>AT 2y | | Killed fiancée with claw hammer after she attacked him - brain damage as result of attack by victim with hammer |
| 3. | **Harris**<br>NSWSC<br>Abadee J<br>7.3.1991 | Unlawful and dangerous – assault<br><br>Assault - domestic | PG | MT 5y<br>AT 1y 8m | | no violence, drug related | Punched and kicked de facto in street because she kept falling over while intoxicated<br>Alcohol problem for both offender and victim |
| 4. | **Shephard**<br>NSWCCA<br>15.7.1991 | Diminished responsibility<br><br>Assault - domestic | PG | MT 4y<br>AT 16m | AD | Nil significant | Killed wife with hammer<br>No previous violence towards wife - brain damage resulting from alcohol abuse |
| 5. | **Bailey**<br>NSWSC<br>Hunt J<br>18.9.1991 | Unlawful and dangerous - assault<br><br>Drowning<br><br>Assault - domestic | | MT 3y<br>AT 1y<br>(discount for assistance) | | minor | Co offender Norton convicted of murder - assaulted flat mate on beach and dragged him to water - died from drowning<br>Alcoholic - 33% discount for assistance to authorities |

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

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| **6.** | **Moore**<br>NSWCCA<br>4.11.1991 | Assault - domestic | VG | MT 5y<br>AT 1y 8m | AD | priors | Killed de facto by punching or elbowing<br>Aboriginal male - intoxicated at time |
| **7.** | **Vaughan**<br>(1991) 56 A Crim R 355 | Victim under 18y<br><br>Assault - domestic | PG<br>Mansl<br><br>Mal inflict GBH | MT 2y 6m<br>AT 9m | Crown AA<br>MT 3y 6m<br>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.** | **Keceski**<br>(33)<br>NSWCCA<br>10.8.1993 | Diminished responsibility<br><br>Assault - domestic | VG | MT 10y<br>AT 3y 4m | AD | no significant | Broke into house and bashed ex-girlfriend to death with glass decanter<br>Depressive illness |
| **9.** | **Vangelder**<br>NSWCCA<br>28.2.1994 | Unlawful & dangerous- assault<br><br>Victim under 18y<br><br>Assault - domestic | VG | MT 3y<br>AT 2y | AD | nil | Female baby-sitter killed 4-month-old baby by shaking - mistreated baby previously for 'misbehaviour'<br>Low intelligence |
| **10.** | **Haynes**<br>NSWSC<br>Studdert J<br>25.3.1994 | Diminished responsibility<br><br>Victim under 18y<br><br>Assault – domestic | PG<br>2 x Mansl | MT 6y<br>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<br>Obsessive personality and depressive disorder - news from children triggered catastrophic depression |
| **11.** | **Sempel**<br>NSWCCA<br>31.3.1994 | Young child<br><br>Assault – domestic<br><br>Unlawful and dangerous - assault | PG | MT 5y 3m<br>AT 1y 9m | AD | recog for neglect of older child | Female killed 1-month old daughter - child previously suffering multiple injuries |
| **12.** | **Forsyth**<br>(20)<br>NSWSC<br>Finlay J<br>26.7.1994 | Diminished responsibility<br><br>Assault – domestic | PG | MT 4y<br>AT 4y | | | Bashed / strangled girlfriend's mother<br>Brain damage caused by assault - loss of self-control |

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| **13.** | **Cutmore**<br>NSWSC<br>Hunt CJ at CL<br>27.7.1994 | Victim under 18y<br><br>Assault – domestic<br><br>Unlawful and dangerous - assault | PG | MT 15m<br>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**<br>NSWCCA<br>9.12.1994 | Provocation<br><br>Assault - domestic | VG | MT 9y<br>AT 3y | AA<br>MT 7y<br>AT 3y | nil | Intense but turbulent homosexual relationship with victim - bashed victim with barbell and statuette - previous assaults on victim |
| **15.** | **Nelson**<br>NSWCCA<br>25.6.1996 | Provocation<br><br>Assault - domestic | PG | MT 8y<br>AT 6y | AA<br>MT 6y<br>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<br>Brother pleaded guilty to murder |
| **16.** | **Grierson**<br>NSWCCA<br>28.10.1996 | Diminished responsibility<br><br>Victim under 18y<br><br>Assault - domestic | PG | MT 3y<br>AT 3y | | no relevant convictions | Mother threw child across room - one-off episode<br>Borderline personality disorder |
| **17.** | **Carlson**<br>NSWCCA<br>25.11.1996 | Diminished responsibility<br><br>Assault – domestic | PG | MT 11y<br>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<br>Permanent brain damage from car accident and alcohol - reduced self control |
| **18.** | **Isaacs**<br>(24)<br>(1997) 41 NSWLR 374<br><br>(1997) 90 A Crim R 587 | Provocation<br><br>Assault - domestic | VG | MT 5y<br>AT 4y | AD | nil | Woke from sleep and beat violent flatmate with dowel |

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| **19.** | **Wilson**<br>(19)<br>NSWSC<br>B-Parker<br>19.12.1997 | Assault – domestic<br><br>Victim under 18y<br><br>Unlawful and dangerous - assault | VG<br>(at murder trial) | MT 3y<br>AT 4y 6m | | Minor | Angered at crying of 2m daughter – slapped her to face then shook vigorously causing almost immediate death<br>Physically abused by mother and sexually abused by step-father – prospects of rehabilitation with aunt in Canada |
| **20.** | **Williams**<br>NSWSC<br>Adams J<br>30.11.1998<br><br>[2000] NSWCCA 136 | Unlawful and dangerous - assault<br><br>Assault - domestic | VG<br>(at murder trial) | MT 6y<br>AT 2y | AD | prior assault on mother | Struck frail and elderly mother about face and head at home while intoxicated<br>No significant remorse or contrition |
| **21.** | **Murdoch**<br>NSWCCA<br>10.12.1998 | Victim under 18y<br><br>Assault – domestic<br><br>Unlawful and dangerous - assault | PG | MT 10y<br>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**<br>[1999] NSWSC 855<br>Barr J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG | MT 3y<br>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<br>Good prospects of rehabilitation - married with large and supportive family – drug problems |
| **23.** | **Dawney**<br>(30)<br>[1999] NSWSC 944<br>Barr J | Substantial Impairment<br><br>Victim under 18y<br><br>Assault – domestic | PG | MT 5y<br>AT 3y | | nil | Mother smothered 3y daughter - father of child taking Family Court action to gain custody<br>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**<br>(mid 40s)<br>[1999] NSWCCA 333 | Unlawful and dangerous - assault<br><br>Assault – domestic | PG<br>Mansl<br><br>Kidnapping<br><br>2 x Mal discharge rifle<br><br>Sched:<br>6 x discharge firearm | MT 6y<br>AT 4y<br><br>FT 4y<br><br>FT 4y<br>(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**<br>(26)<br>[1999] NSWSC 1097<br>Grove J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG | MT 2y<br>AT 3y<br>(PSC 1y) | | assault, mal injury, nuisance offences | Assaulted de facto wife - died of head injuries next morning<br>Violent relationship - alcohol and drugs |
| **26.** | **Wilson**<br>(40)<br>[1999] NSWSC 1235<br>Newman J | Unlawful and dangerous - assault<br><br>Drowning<br><br>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<br>Good character - service in Naval Reserve - early acknowledgment of guilt - genuine remorse - suffering abnormality of mind at time of offence |
| **27.** | **Wang**<br>[2000] NSWSC 447<br>Adams J | Unlawful and dangerous – assault<br><br>Assault – domestic<br><br>Substantial impairment<br><br>Poison / drug<br><br>Victim under 18y | PG<br>Mansl husband<br><br>Mansl daughter | 6y<br>NPP 4y<br><br>2y<br>(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<br>Severe depressive illness - daughter suffering from cerebral palsy and worried no one would look after her |

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| **28.** | **Bateman**<br>[2000] NSWSC 867<br>Barr J | Substantial impairment<br><br>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<br>Deep remorse - condition of bond to continue with treatment program |
| **29.** | **Howard**<br>(26)<br>[2000] NSWSC 876<br>Studdert J<br><br>[2001] NSWCCA 309 | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | PG<br>(10%) | 7y 6m<br>NPP 5y 6m | AA<br>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<br>Strict protection |
| **30.** | **Vandersee**<br>(47)<br>[2000] NSWSC 916<br>James J | Provocation<br><br>Assault – domestic | VG<br>(at murder trial) | 8y<br>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<br>Suffering mild depression at time of offence - made immediate admissions to police |
| **31.** | **Bilton**<br>(32)<br>[2000] NSWSC 1113<br>Bell J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | VG<br>Mansl<br><br>AOABH | 7y<br>NPP 4y 6m<br><br>FT 6m<br>(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<br>Not living with child and mother - limited intellectual ability – remorse - threatened in custody |
| **32.** | **Munro**<br>(20)<br>[2000] NSWSC 1225<br>B-Parker AJ<br><br>[2001] NSWCCA 187 | Unlawful & dangerous - assault<br><br>Assault – domestic | VG<br>(at murder trial) | 3y<br>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<br>Suffering severe epilepsy |
| **33.** | **Recalde**<br>(23)<br>[2000] NSWSC 1247<br>James J | Victim under 18y<br><br>Assault – domestic<br><br>Unlawful and dangerous - assault | PG | 9y<br>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<br>Three months PSC - strict protection – remorse – youth - some prospects of rehabilitation |

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| **34.** | **Hawkins**<br>(76)<br>[2001] NSWSC 420<br>O'Keefe J | Substantial impairment<br><br>Assault – domestic | PG<br>(25%) | 3y<br>NPP 2y | | nil | Strangled wife of nearly 50 years – suffering depression - adverse reaction to overdose of Zoloft (anti depressive medication)<br>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**<br>(20)<br>[2001] NSWSC 416<br>Wood CJ at CL | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | PG<br>(20%) | 8y<br>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<br>Evidence of prior good character - past problems with anger and aggression |
| **36.** | **Fox**<br>(33)<br>[2001] NSWSC 573<br>Grove J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG | 5y<br>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<br>Aboriginal or Pacific Islander female - life of considerable tragedy - lifetime addiction to alcohol - truly remorseful - needs further assistance before release |
| **37.** | **Bartlett**<br>(51)<br>[2001] NSWSC 685<br>Hidden J | Substantial impairment<br><br>Assault – domestic | PG | 8y<br>NPP 4y | | nil | Struck victim with hammer several times during altercation in boarding house room<br>Personality disorder with schizotypal traits and chronic depression |
| **38.** | **Cooper**<br>(21)<br>[2001] NSWSC 769<br>Simpson J | Infanticide<br><br>Young child<br><br>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**<br>(29)<br>[2001] NSWSC 1082<br>Bell J | Substantial impairment<br><br>Assault - domestic<br><br>Victim under 18y | PG<br>(just under 10%)<br><br>Sched: Kidnapping | 12y<br>NPP 8y | | assault | Hung de facto wife's 5y daughter in noose from pergola following separation from de facto<br>Major depressive illness with PTSD, social phobia, substance dependence - sexually assaulted as child |

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| **40.** | **Ladd**<br>(41)<br>[2001] NSWSC 1055<br>James J | Provocation<br><br>Assault - domestic | PG<br>(20%) | 10y<br>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<br>Single parent of no fixed abode – binge drinker – almost completed science degree while in custody – anger management issues |
| **41.** | **Lever**<br>(36)<br>[2001] NSWSC 1131<br>Bell J | Diminished responsibility<br><br>Assault - domestic | VG<br>(at murder trial - 'credit' for offer to plea) | 10y<br>NPP 6y<br>[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<br>Called ambulance and found grieving and contrite - Aboriginal male - excellent standing in community - much hope for rehabilitation |
| **42.** | **Byrne**<br>(33)<br>[2001] NSWSC 1164<br>Dunford J | Unlawful & dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | PG<br>(15%) | 8y 6m<br>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**<br>[2002] NSWSC 618<br>Hulme J | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | PG<br>(10%) | 7y 6m<br>NPP 4y 6m | | AR, driving | Struck 8-month-old baby daughter - at home alone with 5 children under 6y while wife shopping.<br>Unsettled upbringing - Aboriginal male. |
| **44.** | **Tindall**<br>(35)<br>[2002] NSWSC 1108<br>Hidden J | Provocation<br><br>Assault - domestic | PG | 5y 6m<br>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**<br>(25)<br>[2003] NSWSC 373<br>Greg James J | Unlawful and dangerous – assault<br><br>Assault – domestic | PG | 5y<br>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<br>Prior good character – good prospects of rehabilitation – Vietnamese |

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| **46.** | **Marshall**<br>(22)<br>[2003] NSWSC 448<br>Adams J | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | VG<br>(at murder trial - 20% for offer) | 6y<br>NPP 3y 6m | | | Shook 9m son of girlfriend – minding child while mother at work – unthinking, momentary anger – no history of abuse<br>Low intelligence – history of behavioural problems - protective custody - remorse and contrition |
| **47.** | **McNamara**<br>[2003] NSWSC 429<br>Hidden J<br><br>[2004] NSWCCA 42 | Unlawful and dangerous - assault<br><br>Assault – domestic | VG<br>(at murder trial) | 9y<br>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<br>Risk of re-offending |
| **48.** | **Scott**<br>(41)<br>[2003] NSWSC 627<br>Whealy J | Excessive self defence<br><br>Assault - domestic | PG<br>(15%) | 5y<br>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<br>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**<br>(30)<br>(2003) 149 A Crim R 478<br>[2003] NSWSC 1271<br>O'Keefe J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | VG | 7y 6m<br>NPP 4y | | Priors including assault | Shook 3m baby boy, threw him on lounge and punched in abdominal area – angry and intoxicated<br>Depression and heart condition – protective custody |
| **50.** | **KMB**<br>(32)<br>[2003] NSWSC 862<br>Bell J<br><br>[2005] NSWCCA 185 | Provocation<br><br>Assault - domestic | VG<br>(at murder trial) | 6y<br>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<br>Mother to 3 young children – prior good character – good prospects of rehabilitation |
| **51.** | **Hoerler**<br>(20)<br>[2003] NSWSC 1187<br>Miles AJ<br><br>(2004) 147 A Crim R 520<br>[2004] NSWCCA 184 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(10%)<br><br>Sched:<br>5 unrelated offences | 11y<br>NPP 8y 3m | Crown AA<br>14y 4m<br>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<br>Protective custody |

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| **52.** | **Wilson**<br>(30)<br>[2003] NSWSC 1257<br>Miles AJ<br><br>(2005) 62 NSWLR 346<br>[2005] NSWCCA 20 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | VG<br>(at murder trial) | 9y<br>NPP 6y 11m | AA<br>6y<br>NPP 4y 6m | Nil | Female - fatal shaking to 2y foster son – impact injuries to child inflicted earlier by husband – shook child in frustration<br>Prior good character but troubled background – deteriorating psychiatric condition – protective custody |
| **53.** | **Walsh**<br>(32)<br>(2004) 142 A Crim R 140<br>[2004] NSWSC 111<br>Howie J | Provocation<br><br>Assault – domestic | VG<br>(at murder trial – 15% for offer) | 7y 3m<br>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<br>Poor health |
| **54.** | **Williams**<br>[2004] NSWSC 189<br>O'Keefe J<br><br>[2005] NSWCCA 99 | Provocation<br><br>Assault - domestic | VG<br>(at murder trial) | 14y<br>NPP 10y 6m | AA<br>12y<br>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<br>No remorse – future dangerousness |
| **55.** | **Dalton**<br>(18)<br>[2004] NSWSC 446<br>Adams J<br><br>[2005] NSWCCA 156 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(10%) | 7y<br>NPP 3y 3m | Crown AA<br>9y<br>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<br>Aboriginal male - childhood history of physical and emotional abuse – borderline personality disorder |
| **56.** | **Dawes**<br>[2004] NSWCCA 363 | Substantial impairment<br><br>Assault – domestic<br><br>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<br>Depressive illness - remorse and contrition – evidence of rehabilitation with daughter |
| **57.** | **Daniels**<br>(38)<br>[2004] NSWSC 1201<br>Hidden J | Unlawful and dangerous - assault<br><br>Assault - domestic | VG<br>(at murder trial) | 8y<br>NPP 5y | | Minor offences – breached bond | Sustained assault on partner in home – forced head into wall causing brain injury<br>Mental health problems in custody |

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| **58.** | **Hamoui [No.4]**<br>(27)<br>[2005] NSWSC 279<br>Kirby J | Provocation<br><br>Assault – domestic | VG<br>(at murder trial) | 11y<br>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<br>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**<br>(86)<br>[2005] NSWSC 547<br>Hulme J | Substantial impairment<br><br>Assault – domestic | PG | 2y<br>NPP 1y<br>Suspended | | Nil | Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill<br>Elderly couple with many health problems – depression – genuine attempt at suicide |
| **60.** | **Percy**<br>(36)<br>[2005] NSWSC 1244<br>Latham J | Unlawful and dangerous - assault<br><br>Assault – domestic | PG<br>(15%) | 9y<br>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<br>Difficult childhood - drug and alcohol user – genuine contrition |
| **61.** | **Massei**<br>[2005] NSWSC 1030<br>Adams J<br><br>[2006] NSWSC 1298<br>Adams J | Substantial impairment<br><br>Assault – domestic | PG<br>(25%) | Sentencing initially deferred for 12m<br><br>5y 6m<br>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<br>Suffering chronic and severe depression – Argentinian – separated from wife but on good terms – attempted suicide after lighting fire |
| **62.** | **HMF**<br>(30)<br>[2005] NSWSC 1214<br>Latham J | Criminal negligence<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(25%) | 5y<br>NPP 3y 9m | | Record for property offences | Mother scalded 8m daughter in bath – no medical assistance called – no intent to harm<br>History of drug abuse – suffering drug induced psychosis – judgment significantly impaired – genuine remorse |
| **63.** | **Clare**<br>(35)<br>[2006] NSWSC 812<br>Grove J<br><br>(2008) 181 A Crim R 450<br>[2008] NSWCCA 30 | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | VG<br>Mansl<br><br>PG<br>s.66A | 25y<br>NPP 18y 9m<br><br>FT 14y<br>(concurrent) | AA<br>25y<br>NPP 15y 9m<br><br>FT 14y<br>(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<br>Self-confessed paedophile - serving sentence for sexual assault of victim's 6y sister |

| | Case<br>(age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
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| **64.** | **Tekley**<br><br>**Nagle**<br><br>[2007] NSWCCA 75 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Accessory (Nagle) | VG<br>Mans<br><br>Unlawful imprisonment<br><br>VG<br>Mans<br><br>Unlawful imprisonment | 6y<br>NPP 3y 9m<br><br>FT 6m (concurrent)<br><br>5y<br>NPP 2y 9m<br><br>FT 6m (concurrent) | Conviction AD<br>Sentence AD<br><br>Conviction AD | | Flatmate became increasingly violent and threatening – handcuffed to chair – fatally assaulted by T<br>Delay |
| **65.** | **Mundene**<br>(19)<br>[2007] NSWSC 355<br>Howie J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(20%) | 6y 9m<br>NPP 3y 9m<br>(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<br>Aboriginal male - disrupted background – drug abuse – immaturity - remorse |
| **66.** | **Leach**<br>(23)<br>[2007] NSWSC 429<br>Hulme J<br><br>(2008) 183 A Crim R 1<br>[2008] NSWCCA 73 | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(10%)<br><br>Sched:<br>2 x AOABH | 7y 6m<br>NPP 4y 6m | AA<br>6y<br>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<br>Intellectually disabled – depressive disorder – frustrated at inability to settle child – good character – remorse – excellent prospects of rehabilitation |
| **67.** | **Stephenson**<br>(43)<br>[2007] NSWSC 672<br>Hidden J<br><br>[2008] NSWCCA 266 | Unlawful and dangerous - assault<br><br>Assault - domestic | PG | 6y<br>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<br>Volatile and obsessive relationship – drug and alcohol abuse – offence out of character – prospects of rehabilitation - remorse |
| **68.** | **Schoultz**<br>(23)<br>[2007] NSWSC 809<br>Barr J | Substantial impairment<br><br>Assault – domestic<br><br>Victim under 18y | PG | 7y<br>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<br>Remorse – prior good character |

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| **69.** | **Ferguson**<br>(45)<br>[2007] NSWSC 949<br>Grove J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG<br>(25%) | 5y 3m<br>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<br>Good character – very good prospects of rehabilitation – genuine remorse |
| **70.** | **Hansell**<br>(31)<br>[2007] NSWSC 1136<br>Latham J | Excessive self defence<br><br>Assault – domestic | PG<br>(15%) | 3y 4m<br>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<br>Good character – married with daughter – genuine remorse |
| **71.** | **Thurlow**<br>(20)<br>[2007] NSWSC 1203<br>Mathews AJ | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(25%)<br>Mansl<br><br>Att pervert course of justice<br><br>Sched:<br>Att pervert course of justice | 6y 9m<br>NPP 4y 3m<br><br>16m<br>NPP 9m<br><br>Total:<br>7y 6m<br>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<br>Traumatic childhood resulting in early drug addiction - remorse |
| **72.** | **Compton**<br>(30)<br>[2008] NSWSC 204<br>Studdert AJ | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(10%) | 9y<br>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<br>Intellectual disability |
| **73.** | **Frost**<br>[2008] NSWSC 220<br>Barr J | Provocation<br><br>Assault – domestic | PG | 6y<br>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**<br>(55)<br>[2008] NSWSC 317<br>Howie J | Unlawful and dangerous – assault<br><br>Assault - domestic | PG<br>(20%) | 6y 3m<br>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<br>Alcohol abuse – childhood abuse- serious health issues |
| **75.** | **Stevens**<br>(40)<br>[2008] NSWSC 1370<br>Hall J | Provocation<br><br>Assault - domestic | PG<br>(20%) | 8y 9m<br>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**<br>(36)<br>[2009] NSWSC 348<br>Adams J | Substantial impairment<br><br>Assault - domestic | PG<br>(10%) | 5y 6m<br>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<br>Remorse limited by mental capacity – difficulty in prison – continued danger to community |
| **77.** | **Paddock**<br>(78)<br>[2009] NSWSC 369<br>Rothman J | Substantial impairment<br><br>Assault – domestic | PG<br>(20%) | 6y<br>NPP 4y 3m | | Nil | Suffocated 70y partner preparing to move out – attempted to kill self – mid-range – significant impairment<br>Paranoia and early dementia |
| **78.** | **GJL**<br>(36)<br>[2009] NSWDC 167<br>Knox SC DCJ | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(20%) | 6y<br>NPP 4y | | nil | Mother of 9w baby violently shook baby – using drugs – one off incident<br>Suffering long term psychiatric problems as a result of sexual assault and drug use |
| **79.** | **Nguyen (No.2)**<br>(29)<br>[2009] NSWSC 1120<br>Hoeben J | Substantial impairment<br><br>Assault – domestic<br><br>Victim under 18y | VG<br>Manslaughter<br><br>Manslaughter | 5y<br>NPP 3y<br><br>5y<br>NPP 3y<br><br>Total<br>6y<br>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<br>Severe depression - genuine remorse |

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|---|---|---|---|---|---|---|---|
| **80.** | **Gloginya**<br>(41)<br>[2009] NSWSC 1435<br>McCallum J | Unlawful and dangerous<br><br>Assault – domestic | PG<br>(10%) | 7y 8m<br>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<br>Suffering brain injury |
| **81.** | **Gabriel**<br>(64)<br>[2010] NSWSC 13<br>Price J | Provocation<br><br>Assault - domestic | VG<br>(at murder trial – 10% for offer) | 9y 3m<br>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<br>Also suffering early dementia, depression and underlying conditions – remorse – poor health |
| **82.** | **Shepherd**<br>(31)<br>[2010] NSWSC 154<br>RA Hulme J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(12.5%) | 7y<br>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<br>Difficult and traumatic childhood – suffering depression - strong remorse – good prospects of rehabilitation |
| **83.** | **Glanville**<br>(27)<br>[2010] NSWSC 364<br>James J | Substantial impairment<br><br>Excessive self defence<br><br>Assault - domestic | VG<br>(at murder trial – some discount for offer) | 6y 8m<br>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<br>Mental health and drug problems |
| **84.** | **NLH**<br>(18)<br>[2010] NSWSC 662<br>RA Hulme J<br><br>Co-offender:<br>PFC | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(30% plea and assist) | 4y 2m<br>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<br>Remorse – good rehabilitation prospects. |

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| **85.** | **Cavanagh**<br>[2010] NSWSC 670<br>Rothman J | Substantial impairment<br><br>Assault – domestic | VG<br>(at murder trial – 25% for offer) | 9y<br>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<br>Major depressive illness from marriage breakdown and access to children – good character – good rehabilitation prospects – remorse |
| **86.** | **LC**<br>(32)<br>[2010] NSWSC 815<br>Hidden J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(10%) | 14y 6m<br>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<br>Aboriginal male - difficult childhood – drug and alcohol abuse |
| **87.** | **Sutton**<br>(19)<br>[2010] NSWSC 1273<br>Adams J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Victim under 18y | PG<br>(25%) | 4y<br>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<br>Remorse – very good prospects of rehabilitation – strict protection |

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| **88.** | **NR**<br>(16)<br>[2011] NSWSC 280<br>Garling J | Unlawful and dangerous - assault<br><br>Assault – domestic<br><br>Juvenile offender | VG<br>(at murder trial – 25% for offer) | 7y 6m<br>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<br>Remorse – very good prospects of rehabilitation |
| **89.** | **Mathers**<br>[2011] NSWSC 339<br>Hall J | Substantial impairment<br><br>Assault - domestic | PG | 2y<br>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**<br>(22)<br>[2012] NSWSC 477<br>Adamson J | Unlawful and dangerous – assault<br><br>Assault – domestic | PG<br>(25%)<br>Mansl<br><br>Agg Rob<br><br>8 x Obtain money by deception | 10y 6m<br>NPP 7y<br><br>FT 6y<br><br>FT 1y<br><br>Total<br>12y<br>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<br>Student from China - support from family. |
| **91.** | **Braddon**<br>(36)<br>[2012] NSWSC 662<br>Hidden J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG<br>(20%) | 5y 6m<br>NPP 3y | | Not relevant | Assaulted neighbour with piece of wood.<br>Mental illness - bipolar disorder – reasonable rehabilitation prospects - remorse |

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| **92.** | **McCann**<br>(67)<br>[2012] NSWSC 1462<br>Barr AJ | Excessive self defence<br><br>Assault – domestic | VG<br>(murder trial) | 7y<br>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<br>Depression / bipolar – prior good character. |
| **93.** | **Forrest**<br>(22)<br>[2013] NSWSC 377<br>Fullerton J | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault - domestic | PG<br>(10%) | 8y<br>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<br>Amphetamine use – dysfunctional upbringing – poorly educated – prone to violent outbursts |
| **94.** | **Kain**<br>[2013] NSWSC 638<br>Adams J | Unlawful and dangerous - assault<br><br>Assault - domestic | PG<br>(25%) | 6y 9m<br>NPP 4y | | Nil | Strangled mother following argument – had lived together – immediately called sister and confessed<br>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**<br>(24)<br>[2014] NSWSC 1099<br>Adams J | Unlawful and dangerous<br><br>Assault – domestic | VG<br>(murder trial - 15% for offer) | 4y<br>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<br>History of psychotic symptoms and schizophrenia – drug use - reduced moral culpability and general deterrence but increased focus on personal deterrence |
| **96.** | **Bryce**<br>(41)<br>[2014] NSWSC 1184<br>Beech-Jones J | Unlawful and dangerous – assault<br><br>Assault - domestic | VG<br>(at murder trial) | 8y<br>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 threating<br>Dysfunctional people in dysfunctional relationship – history of violence by both parties |

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| **97.** | **Merrick (No 5)**<br>(32)<br>[2016] NSWSC 661<br>Wilson J<br><br>[2017] NSWCCA 264 | Unlawful and dangerous - assault<br><br>Assault - domestic | VG<br>(murder trial) | 11y<br>NPP 8y 3m | AD | | Struck girlfriend with blow to the head - led to victim's death two weeks later – violent relationship<br>Family support - hard-working background – prior good character |
| **98.** | **Tikaram**<br>(38)<br>[2016] NSWSC 1716<br>Harrison J | Substantial Impairment<br><br>Assault – domestic | PG<br>(25%) | 6y<br>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<br>Schizophrenia - characterised by relapses of psychosis evidenced by auditory hallucinations, delusions and thought disorder - support of mother and family |
| **99.** | **Toohey (No 2)**<br>(38)<br>[2017] NSWSC 1217<br>Fagan J | Unlawful and dangerous act - assault<br><br>Victim under 18y<br><br>Assault - domestic | VG<br>(murder trial) | 7y 6m<br>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.<br>Lack of express remorse – low likelihood of reoffending. |
| **100.** | **BT**<br>(25)<br>[2017] NSWSC 1600<br>Hidden AJ | Unlawful and dangerous - assault<br><br>Victim under 18y<br><br>Assault – domestic | PG<br>(20%) | 8y<br>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<br>Difficult and violent childhood – remorse – some prospects of rehabilitation – protection in custody |

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| **101.** | **Errington**<br>(29)<br>[2018] NSWSC 79<br>Adamson J | Unlawful and dangerous - assault<br><br>Assault – domestic | VG<br>(at murder trial – 35% for offer to plead and assistance) | 8y 5m<br>NPP 6y 4m | | AR - robbery - firearm offences | Offender and girlfriend came to live with half-brother – offender's ice addiction caused serous 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.<br>Assistance – remorse – drug addiction<br>Note: co-offender acquitted on appeal: [2019] NSWCCA 260 |
| **102.** | **Dowdle**<br>(57)<br>[2018] NSWSC 240<br>Hamill J | Assault – Domestic<br><br>Substantial Impairment | PG<br>(25%) | 3y<br>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<br>Suffering major depressive disorder with underlying psychiatric conditions - remorse |
| **103.** | **Ambrosius**<br>(50)<br>[2018] NSWSC 1318<br>RA Hulme J | Excessive self defence<br><br>Assault - domestic | PG<br>(15%)<br>Mansl<br><br>Sched: AOABH on police officer | 6y 9m<br>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<br>History of mental illness - schizophrenia |
| **104.** | **Connors**<br>(29)<br>[2018] NSWSC 1439<br>RA Hulme J | Substantial Impairment<br><br>Assault - domestic | PG<br>(25%) | 5y 8m<br>NPP 3y | | nil | Offender bashed sleeping mother to death with hammer – had auditory hallucinations telling him to kill victim to save her soul.<br>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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| **105.** | **ES (No.2)**<br>(33)<br>[2018] NSWSC 1708<br>McCallum J<br><br>[2019] NSWCCA 262 | Unlawful and dangerous - assault<br><br>Young child<br><br>Assault - domestic | PG<br>(12%)<br><br>Sched:<br>AOABH on same victim | 8y<br>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<br>Difficult background – refugee from Iran – good character – well regarded – mental health issues - reasonable prospects of rehabilitation |
| **106.** | **Hutchison**<br>(36)<br>[2019] NSWSC 25<br>Hamill J<br><br>Co-offender:<br>WILKINSON | Excessive self-defence<br><br>Substantial impairment<br><br>Assault – domestic | VG<br>(murder trial – 25% for early offer) | 9y<br>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<br>Chronic mental health issues arising from early child sexual assault – drug abuse – difficult relationships |
| **107.** | **Lees**<br>(41)<br>[2019] NSWCCA 65 | Motor vehicle<br><br>Assault – domestic<br><br>Unlawful and dangerous – misc | PG<br>(10%)<br>Mansl<br><br>s.166 cert offences | 16y<br>NPP 12y<br><br>6m<br>(concurrent) | AA<br>12y<br>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<br>Difficult relationship – mental health issues<br>On appeal: sentence manifestly excessive - failure to properly take into account mental health issues |

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| **108.** | **Wilkinson**<br>(39)<br>[2019] NSWSC 235<br>Hamill J<br><br>Co-offender:<br>HUTCHINSON | Assault – domestic<br><br>Accessory | VG<br>(at murder trial – 25% for offer) | 8y<br>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<br>Prior good character – good prospects of rehabilitation - remorse |
| **109.** | **Yardley**<br>(54)<br>[2019] NSWCCA 291 | Assault – domestic<br><br>Unlawful and dangerous - assault | PG<br>(10%) | 3y 6m<br>NPP 18m | Crown AA<br>6y 4m<br>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<br>CCA: error in assessment of objective seriousness - special circumstances not available |
| **110.** | **French**<br>(32 at offences; 41 at sentence)<br>[2021] NSWSC 1531<br>Dhanji J | Unlawful and dangerous – assault<br><br>Assault - domestic | PG<br>(10%)<br>Mansl<br><br>Disposal corpse | 9y<br>NPP 6y<br><br>2y 8m<br>NPP 2y<br><br>Total<br>10y<br>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.<br>Background of deprivation - special circumstances. |
| **111.** | **DF**<br>(25; 29 at sentence)<br>[2022] NSWSC 762<br>Garling J | Victim under 18y<br><br>Assault – Domestic<br><br>Unlawful and dangerous - assault | PG<br>(5%) | 14y 3m<br>NPP 10y 8m | | Minor fraud.<br>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.<br>Unable to make any finding as to rehabilitation. |

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| 112. | **Songcuan (No.3)** (73) [2023] NSWSC 183 Campbell J | Strangulation / choking<br><br>Extreme provocation<br><br>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.<br>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.<br>Advanced age – good character. |
| 113. | **Craig** (25 at offence / 62 at sentence) [2024] NSWSC 1059 N.Adams J | Assault – domestic<br><br>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<br>s.21B not applicable – old sentencing patterns applied<br>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 |

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|---|---|---|---|---|---|---|---|
| **114.** | **Huber**<br>(69)<br>[2025] NSWSC 1039<br>Rothman J | Assault – domestic<br><br>Unlawful and dangerous act | VG Manslaughter (at murder trial)<br><br>PG (5%)<br>AOABH<br><br>s.166 Cert: Breach ADVO<br><br>Trespass<br><br>Assault | 12y<br>NPP 8y 9m<br><br><br><br><br>FT 17m<br><br><br>FT 12m<br><br>Conviction only<br><br>Conviction only<br><br>Total:<br>12y 9m<br>NPP 9y 6m | | Lengthy and significant record | Fatal assault on female partner – no brain injuries – assault precipitated stress necessary to cause heart to stop – pre-existing coronary heart disease - methadone detected – no intent to cause GBH – volatile and often violent relationship – victim relied upon offender for some care after stroke – AOABH related to punching to face several days earlier<br>Some evidence of childhood trauma – complex PTSD at time of offence – couple made homeless by floods – danger of institutionalisation – failure to take responsibility |

**Last updated: Sept 2025**