Manslaughter

Assault – Single Blow

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

1.	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
2.	**ALH** NSWSC Dunford J 26.5.1995	Unlawful and dangerous - assault Assault – general Juvenile offender	PG	MT 3y 6m AT 4y Detention		juvenile convictions	Aboriginal youth bashed victim while in company, suspecting him of stealing - hard punch to head caused death Intellectually disabled - contrite
3.	**Risteski** (22) [1999] NSWSC 1248 Dunford J	Unlawful and dangerous - assault Fight - assault Assault – general	PG	MT 3y 6m AT 2y		minor record reflecting alcohol problem	Killed English tourist with one punch to back of head during brawl between friends and English tourists after watching soccer match on TV - attempted to punch and kick deceased while on ground - intoxicated Good character - supportive friends and family - excellent prospects of rehabilitation
4.	**Maclurcan** (48) [2003] NSWSC 799 Buddin J	Unlawful and dangerous - assault Assault – general	PG	3y NPP 17m		Minor	Struck male acquaintance once to head with fist during argument – victim's head struck concrete – offender in manic phase of bipolar disorder Excellent character evidence – good prospects of rehabilitation
5.	**O'Hare** (23) [2003] NSWSC 652 Whealy J	Unlawful and dangerous - assault Assault – general	PG (20%) Sched: Mal damage	6y NPP 3y 6m		Minor	Offender intoxicated and angry when encountered male stranger on street – words exchanged but no provocation – victim hit once to side of face and fell on pavement Verbal and physical abuse from step father – long history of alcohol addiction – good character – reasonable prospects of rehabilitation - remorse

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.	**KT** (16) [2007] NSWSC 83 Johnson J (2008) 182 A Crim R 571 [2008] NSWCCA 51	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (25%)	6y NPP 4y	AD	Nil	Driving with friend throwing eggs at strangers on street – victim became agitated at conduct and threw can at car – confrontation resulted in single fatal punch to head – victim small Sudanese man with limited English Borderline intellectual ability – remorse
7.	**Wheatley** (45) [2007] NSWSC 1182 Bell J	Unlawful and dangerous - assault Assault - general	PG (25%)	3y 9m NPP 2y		Minor	Pushed 83y male stranger onto street – hit by oncoming traffic – no intent to hurt or push into traffic – loutish behaviour – 'spontaneous outburst of low-level violence which had catastrophic consequences' – intoxicated – angered by earlier unrelated confrontation with male Suffering chronic schizophrenic illness
8.	**Bashford** (24) [2007] NSWSC 1380 Rothman J	Unlawful and dangerous - assault Assault - general	PG (25%)	5y 3m NPP 3y 6m		Breached conditional liberty for non-violent offences – priors for violence	Intoxicated male making out of character and offensive comments outside hotel – single punch to head causing death – response to offensive comment – spontaneous act Voluntarily attended police station – subject to significant personal stress at time of offence – depression – good character – traumatic childhood – evidence of rehabilitation
9.	**CK** (15) **TS** (15) [2007] NSWSC 1424 Latham J	Unlawful and dangerous - assault Assault – general Juvenile offender Victim under 18y	PG (25%) PG (25%)	6y NPP 4y 6y NPP 3y 6m		Priors – breached bond nil	17y walking down main street of town late at night – headbutted by CK – punched to head by TS – unprovoked attack – died of subarachnoid haemorrhage Drug and alcohol abuse – difficult childhoods
10.	**Smith** (22) [2008] NSWSC 201 Hulme J	Unlawful and dangerous – assault Assault - general	PG (25%)	3y 9m NPP 2y 6m		Minor	Waiting at taxi stand after Christmas function – punched passing stranger once – victim struck head on concrete – no provocation – intoxicated Evidence of excellent rehabilitation – good prospects - remorse

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11.	**Carroll** (20) (2008) 188 A Crim R 253 [2008] NSWCCA 218 [2009] HCA 13 (2010) 200 A Crim R 284 [2010] NSWCCA 55	Unlawful and dangerous - assault Assault - general	PG	3y NPP 18m PD	Crown AA 3y NPP 18m AA Matter remitted to CCA Crown AA 18m suspended sentence + PSC 5m PD / 7m full time	Nil	Altercation outside hotel between victim and offender's group of friends – victim made idle threat to kill – offender head butted victim who fell back onto road – died ten days later – victim heavily intoxicated Excellent prior character – depression resulting from offence – genuine understanding of consequences of act – excellent prospects of rehabilitation On appeal: full-time imprisonment required but in light of pre-sentence custody and exceptional circumstances imprisonment suspended
12.	**Irvine** (20) [2008] NSWCCA 273	Unlawful and dangerous - assault Excessive self defence Assault - general	PG (25%)	3y NPP 2y PD	Crown AD	Nil	Number of young people taking part in burnouts on street – victim crashed vehicle and left scene – offender and friend went after victim to tell him to return to scene and await police – victim intoxicated and abusive – offender punched victim in self-defence causing haemorrhage - victim had congenital abnormality causing weakness Strong subjective case – youth – rehabilitation
13.	**Donaczy** (28) [2010] NSWCCA 143	Unlawful and dangerous - assault Assault - general	PG (20%)	6y NPP 3y 6m	AD	Prior record – not serious	Punched male acquaintance once to head outside hotel – evidence suggests tension between offender and victim throughout the night Difficult and abusive childhood – early drug abuse – Aboriginal male – good prospects of rehabilitation
14.	**AJC** (17) (2010) 207 A Crim R 307 [2010] NSWCCA 168	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (40% for plea and assist on appeal)	2y 6m NPP 18m PD	Crown AA 3y NPP 1y 9m PD	nil	Single punch to 20y male at show – been advised by co-accused that victim had tried earlier to fight physically vulnerable youth – followed victim and delivered unexpected punch to head – no provocation or opportunity for self-defence – innocent victim – impulsive attack of immature youth - committed in presence of child under 18y – below mid-range Genuine and deep remorse – voluntarily surrendered to police – assistance in relation to co-accused – publicly named by newspaper On appeal - discount for assistance excessive

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15.	**Castle** (54) [2012] NSWSC 1603 RA Hulme J	Unlawful and dangerous - assault Assault - general	PG (25%)	7y 6m NPP 5y 8m		Armed rob, demand money, drugs, assault.	(1998) - single punch - robbery of female at ATM - during struggle offender punched victim causing her to fall – offender's image caught on CCTV at ATM but denied involvement – DNA match Drug abuse – depression - lack of empathy towards victim
16.	**Loveridge** (19) [2013] NSWSC 1638 Campbell J [2014] NSWCCA 120	Unlawful and dangerous - assault Assault - general	PG (25%) Mansl Assault Assault Assault AOABH	6y NPP 4y FT 4m FT 4m FT 4m FT 6m <u>Total</u>: 7y 2m 5y 2m	Crown AA 10y 6m NPP 7y FT 9m FT 11m FT 13m 22m NPP 16m <u>Total</u>: 13y 8m NPP 10y 2m	AOABH – breached conditional liberty	Punched male stranger in face (king-hit) in Kings Cross - victim fell suffering massive skull fracture and brain injury – assaulted other victims prior to and following this attack – had been out drinking with friends. Youth – remorse – rehabilitation - difficult upbringing
17.	**Wood** (30) [2014] NSWCCA 184	Unlawful and dangerous – assault Assault - general	PG (5%)	6y 8m NPP 5y	Crown AA 11y 4m NPP 8y	AOABH, assault, obstruct officer, assault officer	Rode past 71y female on foot path – stopped riding and returned on foot to push victim – victim fell to ground hitting head and died – unprovoked, aggressive offence Aboriginal male – previous assault committed in similar circumstances
18.	**Field** (39) [2014] NSWSC 1797 Fullerton J [2015] NSWCCA 332	Assault – general Unlawful and dangerous - assault Fight - assault	VG (at murder trial)	10y NPP 7y 6m	AD	nil	Punched male victim once to jaw in hotel car park during fight – unprovoked attack – escalating tensions between two groups in hotel during evening – fatal punch caused neck to rotate releasing arterial blood into cranial cavity Offence out of character – retired rugby league player – community involvement

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19.	**Dyer** (29) [2014] NSWSC 1809 RS Hulme J	Assault – general Provocation	PG (15%)	6y 6m NPP 3y 9m		Breached bail for common assault – breached parole for assault offence – extensive record including assault	Both victim and offender homeless – altercation over victim leaving his trolley of possessions on road – victim verbally aggressive and threatened offender – one punch to side of face causing victim to hit head on road – less serious than other one-punch manslaughters – element of provocation Difficult and abusive childhood – Aboriginal male – remorse
20.	**Matia** (34) [2015] NSWCCA 79	Assault – general Unlawful and dangerous - assault Fight - assault Excessive self defence	VG	3y NPP 18m	Crown AD	Nil	Security guard - part of group that pursued group including victim away from hotel – victim armed himself with paint scraper – single punch to head of victim - acted in defence of another Good character – offence out of character – security licence revoked – carer for mother – father to young child – genuine remorse
21.	**Lambaditis** (33) [2015] NSWSC 746 Hall J [2016] NSWCCA 117	Unlawful and dangerous - assault Assault – general	PG (25%) Sched: AOABH	9y NPP 6y 9m	AD	Mid-range PCA	Intoxicated male walking street late at night – punched male stranger in response to perceived negative comment – first victim's friend punched offender to head – offender retaliated by punching second male to head causing death – cowardly and unprovoked response – offender wholly responsible Remorse – reasonable prospects of rehabilitation
22.	**McNeil** (25) [2015] NSWSC 1198 Johnson J	Unlawful and dangerous - assault Assault - general	VG (murder trial – 25% for offer) AOABH Assault	<u>Indicative</u> 9y 1y 6m 6m <u>Aggregate</u>: 10y NPP 7y 6m		Record including violence	Intoxicated in Kings Cross New Year's Eve – after run in with three youths selling drugs hit and kicked one youth – mistakenly believed male stranger part of group and punched him once to head causing death – punched victim's brother Genuine remorse – drug and alcohol history – some evidence of rehabilitation

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23.	**BH** (17) [2016] NSWCCA 290	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (25%)	5y 3m NPP 3y 11m	AD	Assault with intent to rob, rob in company, acts of threatened / actual violence - on probation.	Single punch – killed 60y male during altercation at shopping mall – responding in anger to racial slur or out of fear Difficult upbringing - borderline intellectual disability – ADHD
24.	**Jones** (22) [2017] NSWSC 19 Harrison J	Unlawful and dangerous - assault Assault - general	PG (15%)	10y NPP 6y		Not significant – no violence – breached conditional	Single punch to head of male stranger – victim remonstrating over offender's driving – unprovoked – spontaneous and completely unreasonable response – drove off and sought to disguise car – below mid-range Genuine remorse – good prospects of rehabilitation
25.	**Grogan** (41) [2017] NSWSC 378 Hidden AJ	Unlawful and dangerous - assault Assault – general	PG (20%)	9y 6m NPP 6y 6m		Violence (old) – robbery	Single punch to head of 71y male acquaintance – animosity but unclear what led to incident. Drug addiction – supportive family – rehabilitation prospects
26.	**Davies** (31) [2024] NSWSC 786 Walton J	Unlawful and dangerous - assault Assault – general	PG (25%) Manslaughter s.166 Certificate Intimidation Destroy property	Indicative 9y 6m 6m Aggregate 9y NPP 6y		Dishonesty, property damage, contravene AVO, stalk and intimidate, driving, affray.	Single punch to head of male deceased, aged 74y – belief that deceased was a paedophile – context of killing was argument between deceased and SM, a young person who left and offender being unable to find her - offender intoxicated - sentenced on basis of single punch, although other acts of violence at or about time of assault - deceased had significant vulnerability in chronic subdural haematoma likely to bleed at any time even from minor event ('eggshell skull' rule) - death caused by fresh subdural bleed which augmented recent pre-assault bleeding. Social deprivation – severe alcohol abuse disorder from 12-13y - significant mental health history - tendency to violence – absence of planning – vulnerability of deceased – hatred for prejudice against a group of people – guarded rehabilitation – remorse - special circumstances.

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