Manslaughter

Excessive Self Defence

s 421 (NSW) *Crimes Act*

(1) Excessive force that inflicts death

(a) the person uses force that involves the infliction of death, and

(b) the conduct is not a reasonable response in the circumstances as he or she perceives them,

but the person believes the conduct is necessary:

(c) to defend himself or herself or another person, or

(d) to prevent or terminate the unlawful deprivation of his or her liberty or the liberty of another person.

(2) At trial for murder to be found guilty of manslaughter if otherwise criminally responsible for manslaughter.

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

Commenced: **22.2.2002 (offences committed before or after this section)**

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	**Nguyen** (24) [2002] NSWSC 536 Greg James J	Excessive self defence Shooting - general	PG (25%) Mansl s.33 2 x s.33A Sched: Possess unlic firearm	7y NPP 3y 6m FT 3y FT 2y (all concurrent)		Serious offences including armed robbery - On parole	6 persons burst into house where offender visiting armed with clubs and bars intending to rob and inflict injury if required - offender discharged 2 shots from pistol killing one man - pursued men firing more shots - impulsive shooting Vietnamese - prospects of rehabilitation

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
2.	**Cioban** (37) [2002] NSWSC 972 Studdert J (2003) 139 A Crim R 265 [2003] NSWCCA 304	Excessive self defence Shooting – general Fight - shooting	VG (murder trial) s.33A	8y NPP 5y FT 18m Total: 9y NPP 6y	Conviction AA - s.33A Manslaughter: AA 6y 6m NPP 4y		Involved in fight with group of Fijians on street - punched and kicked - fired shot at victim failing to strike anything - pursued by victim in aggressive manner - backed into door way and shot victim in chest - no premeditation - believed necessary to defend self Romanian - full time carer for disabled son - out of character - good prospects of rehabilitation
3.	**Trevenna** (32) [2003] NSWSC 463 Buddin J (2004) 149 A Crim R 505 [2004] NSWCCA 43	Excessive self defence Shooting - domestic	PG	7y 6m NPP 4y 6m	Crown AD	Minor record – breached bond	Female - attacked by male house mate – choked and threatened with death – victim holding cricket bat – shot victim in back of head – volatile and deteriorating relationship – in fear of victim – victim large and intimidating male – unpremeditated - element of provocation Childhood history of sexual abuse – remorse – positive prospects of rehabilitation
4.	**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
5.	**Boyd** (37) [2004] NSWSC 263 Buddin J	Excessive self defence Stabbing - general	PG	7y 6m NPP 4y 6m		Includes violence but only one period of imprisonment	Multiple stab wounds to neighbour in hotel with carving knife – violent argument – both intoxicated Violent and deprived childhood – hearing deficit and low intelligence – reduced ability to deal with stress

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6.	**Forbes** (29) [2004] NSWSC 421 Hulme J (2005) 160 A Crim R 1 [2005] NSWCCA 377	Manslaughter One Unlawful and dangerous - stabbing Fight - stabbing Stabbing – general Accessory Manslaughter Two Excessive self defence Shooting – general	PG (12%) Mans VG Mansl (at murder trial - 12% for offer to plea)	12y NPP 9y 12y NPP 8y Total: 19y NPP 15y	AA 9y NPP 6y 9m 12y NPP 8y Total: 16y 9m NPP 12y 9m	Lengthy record – breached parole	Involved in fight outside hotel – male stabbed by friend of offender – aware friends intoxicated and had knife – aware risk knife would be used 3 months later took loaded gun to confront male acquaintance over disputed issues – aware victim violent – shot victim in caravan in subsequent struggle – second shot fired while victim on or near floor – intent to kill Low prospects of rehabilitation
7.	**Muddle** (40) [2004] NSWSC 403 Bell J	Excessive self defence Stabbing - domestic	VG (murder trial)	6y NPP 3y		Minor	Became involved in sustained physical fight with younger and powerfully built male acquaintance during drinking session at offender's home – victim threatened to kill then forced way into house – stabbed in upper back with knife - excessive self-defence to introduce weapon Genuine remorse – reasonable prospects of rehabilitation
8.	**Price** (29) [2004] NSWSC 868 Barr J	Excessive self defence Unlawful and dangerous - stabbing Stabbing - general	PG	8y NPP 5y		Significant, incl 4 offences with a knife	Stabbed drug dealer – plea accepted but not wholly clear whether excessive self-defence or unlawful and dangerous act – habitually carried a knife Aboriginal male – previous alcohol problems – on methadone program but continues to use heroin from time to time – prospects of rehabilitation

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9.	**Vuni** (50) [2005] NSWSC 184 Studdert J [2006] NSWCCA 171	Excessive self defence Shooting - general	VG (at murder trial)	10y NPP 7y 6m	AD	Prior convictions for violence	Shot male acquaintance in head after heated discussion – intent to kill – had been requested by victim to recover stolen weapons and assault men responsible – threatened by victim when failed carry out request – fearful for family present at scene of offence Tongan
10.	**Ward** (54) [2005] NSWSC 266 Whealy J (2006) 166 A Crim R 273 [2006] NSWCCA 321	Excessive self defence Stabbing - domestic	VG (at murder trial)	7y NPP 4y	AD	Minor assault	Stabbed male neighbour in throat with penknife used to open letters – victim kicked offender with steel capped boots and punched him in head – unreasonable response to assault – history of poor relationship between neighbours Immediate remorse – good character and good prospects of rehabilitation
11.	**Ali** (mid 20s) [2005] NSWSC 334 Wood CJ at CL	Excessive self defence Provocation Shooting - general	VG (at murder trial)	5y 8m NPP 2y 8m		Record includes acc to robbery	Victim obsessed with offender's partner - threatened offender and partner a number of times including using a pistol – on night of killing, victim had cocaine and told others he was going 'to get' offender – victim talked with offender then threatened killing of parents – offender shot victim when he was seeking refuge after being disarmed Lebanese background – stable family – no drug use – remorse – involved in community – partner pregnant again
12.	**Ahmad** (30) [2005] NSWSC 911 Howie J [2006] NSWCCA 177	Excessive self defence Fight - shooting Shooting - general	PG (15%) Mal inflict GBH Mal wound AOABH	9y 4m NPP 6y FT 15m FT 9m FT 9m Total: 10y 4m NPP 7y	AD	Irrelevant	Arguments between factions of Lebanese community – offender broke one victim's jaw and later shot and killed second victim – intent to kill Lebanese – married with 3 young children – wife sentenced for hindering police – out of character – some hearing loss from bomb blasts in Lebanon – very low IQ – good rehabilitation prospects

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
13.	**WKD** (19) **MJN** (15) [2005] NSWSC 694 Mathews AJ	Excessive self-defence (WKD) Assault – general Juvenile offender (MJN) Accessory (MJN)	VG (at murder trial) PG Steal from dwelling VG (at murder trial) PG Steal from dwelling	12y NPP 8y FT 1y 6m Total: 13y 6m NPP 9y 6y NPP 2y 6m FT 1y Total: 7y NPP 3y 6m		Included assault Nil relevant	Cousins assaulted male acquaintance in victim's home with iron bar and beer bottle – stole property – attended home with intent to assault – retaliation for earlier confrontation WKD - primary offender – inflicted majority of injuries – excessive self-defence - Aboriginal male – 2 children from long term relationship MJN –acted under pre-existing criminal enterprise to assault – under influence of older cousin – Aboriginal youth - remorse
14.	**Cakovski** (19) [2005] NSWSC 1001 Studdert J	Excessive self defence Stabbing - general	PG (15%)	7y 8m NPP 5y 8m		Minor but breach of bail	Stabbed elderly drunk during attempt to rob – victim killed 3 people over 25 years earlier and had threatened to kill someone on night he of offence Behaviour in custody improved since converting to Islam – supportive relationship and family – emotionally immature – possible ADHD – no genuine remorse – special circumstances Earlier conviction for murder overturned on appeal.
15.	**Nam** (29) [2006] NSWSC 802 Adams J	Excessive self defence Shooting - domestic	PG (17%) Mansl 2 x Mal inflict GBH	4y 6m NPP 2y FT 18m (concurrent)		Minor – no violence	Attempt made by group of males to unlawfully evict offender and family (including 14m child) from farmhouse – program of intimidation undertaken at night involving violence and threats to rape and kill – offender panicked and provoked - fired shot gun at advancing group – use of gun reasonable but not uncontrolled firing - bottom of range - extremely provocative conduct of victims a substantial mitigating factor Father to young child

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16.	**Hamilton** (34) [2007] NSWSC 452 Adams J	Excessive self defence Stabbing - general	PG (25%)	5y 6m NPP 2y 6m		Priors – no violence	Struggled with male friend at house – victim acting in irrational, violent and threatening manner with knife – genuine fear – three blows excessive – took body and dumped in creek at golf course at bequest of occupier of house afraid of going to gaol –offence in low range Borderline intellectual functioning – remorse
17.	**Diab** (26) [2007] NSWSC 577 Studdert J [2009] NSWCCA 58	Excessive self defence Shooting - general	PG (15%)	10y 3m NPP 7y 9m	AD	Priors – assault	Met with victim in bedroom of house to discuss dispute over drug dealing – victim drew gun but no evidence gun was loaded – shot victim five times – unreasonable response
18.	**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
19.	**King** (18) [2007] NSWSC 1134 Fullerton J	Excessive self defence Stabbing - domestic	PG (25%)	4y NPP 22m		Nil	Argument broke out with strangers outside family home of offender – 30-40 additional men arrived to continue fight – genuine fear for safety of self, brother and family including children in house – retrieved knife from house – stabbed victim in neck – single stab wound - intent to inflict GBH only – low end of range of seriousness Good character – long term relationship with young child - remorse
20.	**Turuta** (44) [2007] NSWSC 1505 Mathews AJ	Excessive self defence Stabbing - domestic	VG (at murder trial) Assault	7y NPP 4y 6m FT 3m (concurrent)		Nil	Fought with neighbour and friend after offender physically assaulted partner – stabbed neighbour in back and stomach Extraordinary hardship to three children – serious physical deterioration of mother – born in Cook Islands

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
21.	**A.S.Jones** (43) [2007] NSWSC 1333 Buddin J Co-offenders: A JONES SM JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (at murder trial - 15% for offer) Mansl Mal wound Sched: 4 off	8y 3m NPP 5y 3m FT 18m Total 9y NPP 6y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to A Jones and son of S Jones - exemplary conduct in custody – possibility of deportation – prospects of rehabilitation
22.	**A.Jones** (21) [2007] NSWSC 1333 Buddin J [2009] NSWCCA 169 Co-offenders: AS JONES SM JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (at murder trial – 15% for offer) Mansl Mal wound Assault	8y 3m NPP 5y 3m FT 18m FT 4m Total 9y NPP 6y	AD	Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – offender assaulted 16y female – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – convicted of alternative offences at trial for murder and attempt murder Son of AS Jones - remorse – prospects of rehabilitation

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23.	**S.M.Jones** (32) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES S JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	PG (15%) Mansl Mal wound	8y 3m NPP 5y 3m FT 18m Total 9y NPP 6y		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation Evaded police and voluntarily surrendered during trial of other offenders
24.	**S.Jones** (64) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES SM JONES E JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (murder trial) Mansl Mal wound	7y 9m NPP 4y 9m FT 18m Total 8y 6m NPP 5y 6m		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to AS Jones and S Jones and grandfather of A Jones

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
25.	**E.Jones** (female) 63) [2007] NSWSC 1333 Buddin J Co-offenders: AS JONES A JONES SM JONES S JONES	Excessive self defence Provocation Fight - stabbing Stabbing – general Accessory	VG (murder trial) Mansl Mal wound	7y NPP 4y 6m FT 12m Total 7y 6m NPP 5y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Culpability slightly less – wife of S Jones, mother to AS Jones – health problems – isolation from family (most in custody)
26.	**Salah** (33) [2008] NSWSC 311 Johnson J [2009] NSWCCA 2	Excessive self defence Stabbing - general	PG (10%)	8y 9m NPP 5y 9m	AA Technical matter only – same effective sentence	Minor	Earlier in day had violent argument with victim – several hours later returned to area and warned that victim was armed with knife – in subsequent confrontation victim broke hand of brother and threatened with knife – grabbed knife from victim and stabbed six times – more serious category Israeli national – good character
27.	**Williamson** (19) [2008] NSWSC 686 James J	Excessive self defence Stabbing – general Victim under 18y	PG (15%)	5y NPP 2y 6m		Nil	Stabbed 15y male once in abdomen with broken glass drug smoking pipe during fight at party in bushland – fight provoked by victim jealous of offender's relationship with ex-girlfriend – assaulted by victim and others – sustained head injury – spontaneous offence – intent to cause GBH – intoxicated Disrupted childhood – substance abuse – good prospects of rehabilitation
28.	**Stewart** (27) [2008] NSWSC 563 Johnson J [2009] NSWCCA 152	Excessive self defence Stabbing - domestic	VG (at murder trial – 12.5% for offer)	10y 6m NPP 7y 3m	AD	Priors including violence	Altercation between offender and victim at house offender shared with mutual friend – asked by friend to leave - offender returned unannounced next afternoon – stabbed victim 12 times with push dagger during punch up with victim – armed with concealed weapon – intent to inflict GBH – high objective gravity

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
29.	**Stephens** (34) [2008] NSWSC 1429 Latham J [2009] NSWCCA 240	Excessive self defence Stabbing - general	PG (15%)	10y NPP 7y	AD		Single stab wound to chest of male acquaintance with serrated knife after victim threatened to 'smash' offender – victim had been indicating intention to fight – grossly disproportionate response to threat
30.	**Lynn** (29) [2008] NSWSC 1122 Hidden J	Excessive self defence Stabbing - general	PG (12.5%)	7y NPP 4y 6m		Lengthy – includes carrying weapon in public place	During confrontation with victim reached over and stabbed him once at base of neck – spontaneous offence – reacted to comment made by victim and having fought with victim 3-4 weeks earlier Difficult childhood – lacks insight into offence
31.	**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
32.	**C R** (16) [2008] NSWSC 1208 Kirby J	Excessive self defence Juvenile offender Stabbing - general	VG (at murder trial)	7y NPP 3y 6m		AOABH	Met male stranger outside toilet block while waiting for friend – intoxicated but not drunk – after sharing drink and talking subjected to bear hug by victim – misunderstanding as to actions and motives – panicked and stabbed victim twice – carried knife for protection – impulsive offence – no intent to kill – victim suffering Aspergers – offender not homophobic No history of violence – remorse – very good prospects of rehabilitation – early abuse of alcohol
33.	**Katic** (29) [2008] NSWSC 1330 Hidden J	Excessive self defence Assault - general	VG (at murder trial – 10% for offer) PG Agg AR	9y NPP 5y 6m FT 4y Total: 11y NPP 7y 6m		Nil significant	Robbed newsagency with unloaded air rifle – co-offender standing lookout – pursued by proprietor – fatally struck proprietor with wooden fence paling Troubled background – substance abuse – remorse – prospects of rehabilitation

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
34.	**Abbas** (33) [2009] NSWSC 127 Mathews AJ	Excessive self defence Stabbing - general	PG (20%)	6y 9m NPP 3y 9m		Minor record – no gaol	Intoxicated male stranger threatened offender and friend at table in fast food outlet – retrieved knife from car to scare victim – stabbed victim four times when victim held friend by shirt neck - lower end of spectrum Voluntarily attended police station – extreme remorse – severely physically assaulted by mother leaving heightened response to threats – attempted suicide twice as teen – good work record – married with two children – strong prospects of rehabilitation
35.	**TT** (20) **RT** (17) **ET** (25) [2009] NSWSC 437 Lathan J	Excessive self defence Juvenile offender Stabbing – general Fight - stabbing Accessory (TT and ET)	PG (15%)	6y 3m NPP 3y 3m 6y 6m NPP 3y 6m 6y NPP 3y		Breached bond for minor offence Nil Nil	TT and RT became involved in fight on street with group of men including victim – woke brother and returned to scene armed with sword and knife – victim stabbed by RT – TT and ET charged on basis of participation in affray in knowledge that serious physical injury could result – moderately below mid-range TT and ET suffered skull fractures from affray – good prospects of rehabilitation – no problem with alcohol and drugs - remorse
36.	**Smith** (22) [2009] NSWSC 1183 Mathews AJ [2011] NSWCCA 110	Excessive self defence Assault - general	PG (10%)	6y 9m NPP 4y 6m	AD	minor	Offender and friends pursued through streets at night by victim wielding two knives and making threats – victim indicated surrender when threatened by male holding tree branch – offender took branch and struck victim several times with branch – kicked victim to head on ground – judgment impaired by intoxication – injury to hand – lower range of culpability for manslaughter by excessive self defence Cannabis abuse – prior good character – good prospects of rehabilitation

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
37.	**HT** (16) [2010] NSWSC 324 Hidden J	Excessive self defence Juvenile offender Fight – stabbing Victim under 18y Stabbing - general	PG (15%) Mansl Carry knife in public place	6y NPP 3y FT 3m (concurrent)		nil	Fatally stabbed 17y youth on train – victim's group pursued offender's group on train – victim stabbed several times to chest when he approached offender throwing punches – carried knife for personal protection Deep remorse – fearful as a result of being a victim of violence in the past – violence out of character
38.	**Good** (22) [2010] NSWSC 402 Buddin J	Excessive self defence Stabbing - general	VG (at murder trial – 25% for offer)	7y 9m NPP 4y 9m		Assaults – breached bond	Stabbed male acquaintance – 6 stab wounds – during confrontation outside party responded to assault by victim – showed some reluctance to fight - history of antagonism between offender and victim over offender's relationship with victim's sister – spontaneous offence
39.	**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
40.	**Horton** (27) [2010] NSWSC 1007 Davies J	Excessive self defence Unlawful and dangerous – stabbing Stabbing - general	PG (15%)	4y 3m NPP 2y		Record including violence – breached bond for assault offence	Stabbed victim with victim's knife during drug deal – victim first stabbed offender three times leaving knife in shoulder – stabbed once only - element of provocation – unlawful and dangerous act – bottom of range – disposed of victim's car keys Drug and alcohol addiction – depression – genuine remorse

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
41.	**Grant** (52) [2010] NSWSC 1048 Barr AJ [2014] NSWCCA 67	Excessive self defence Shooting - general	PG (25%) Mansl Dispose of body Cultivate comm qty cannabis Supply cannabis	12y NPP 8y 6m FT 1y 5y 4m NPP 4y FT 2y Total: 14y NPP 10y 6m	AA 10y NPP 7y 6m FT 1y 5y 4m NPP 4y FT 2y Total: 12y NPP 9y 6m	Nil	Grew cannabis plants at farm to meet financial obligations – victim twice stole plants – armed self with loaded pistol for protection – on third occasion victim broke into house and shot twice – disposed of body in nearby national park – 1,549 cannabis plants found on property – 8.14kg dried cannabis – principal in drug offences – below mid-range On appeal sentenced on basis of intent to cause GBH
42.	**Smith** (18) [2012] NSWSC 38 Mathews AJ Co-offender: BARGHACHOUN AH	Excessive self defence Fight - stabbing Stabbing - general	VG (at murder trial – 20% for offer to plead)	6y NPP 3y		Nil	Stabbed male during confrontation between two groups at night – victim called in to support one group and approached offender with bat – stabbed victim once to side of body in self-defence – spontaneous offence – took knife from friend earlier to prevent friend using it Impeccable character – offence out of character – immediate remorse – onerous bail conditions
43.	**Cook** (18) [2012] NSWSC 480 Garling J	Excessive self defence Fight - stabbing Stabbing - general	PG (25%)	7y 6m NPP 4y		BE&S - on bond at time of offence.	Stabbed victim once in chest during affray between two groups of males – victim walking towards offender with broken bottle – both took swing at each other – offender did not bring knife to fight but had picked it up in self-defence – actions of immature teenager Employed – reasonable rehabilitation prospects – little chance of reoffending – general good character
44.	**Seymour** (24) [2012] NSWSC 1010 Price J	Excessive self defence Stabbing - domestic	VG (at murder trial)	6y 6m NPP 3y 6m		minor	Female stabbed mother in arm as act of excessive self-defence – victim bled to death - history of verbal and physical abuse by victim against offender – victim a drug user – deliberate stabbing – failed to assist victim but unaware could bleed to death – spontaneous offence Deprived and dysfunctional childhood – suffering depression at time of offence

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
45.	**T.Carney** (18) **L.Cambey** [2012] NSWSC 1344 Schmidt J (Cambey) [2013] NSWCCA 170	Excessive self defence Assault – general	PG PG	9y NPP 6y 7y 8m NPP 5y 2m	 AA 7y 2m NPP 4y 10m	Nil nil	(2006) – attended victim's home with co-offender for purpose of purchasing drugs – victim assaulted TC with metal pole when discovered co-offender had taser – offenders unaware of taser – TC assaulted victim in self-defence with pole – victim suffered injuries consistent with being bashed by metal pole and being kicked – unplanned offence TC: drug and alcohol abuse LC: drug use – supportive family On appeal LC found less culpable Earlier convictions for murder quashed: *Carney; Cambey* [2011] NSWCCA 223
46.	**Booth** (38) [2012] NSWSC 1424 Latham J	Excessive self defence Shooting - general	PG (10%) Sched: 5 offences	9y NPP 6y		Assault, malicious damage, possess firearms, possess drug	Shot victim once at close range to chest – dispute over drug dealing – warned by victim's brother that victim was angry and coming to sort offender out – placed loaded shotgun at door – when victim arrived forced entry through half opened door armed with baton – shot fired by offender – serious case of manslaughter Drug use – good rehabilitation prospects
47.	**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.
48.	**Nguyen** (55) [2013] NSWSC 197 Fullerton J [2013] NSWCCA 195 [2016] HCA 17	Excessive self defence Shooting - general	PG (10%) Mansl s.33(1)(a) Sched: Firearms offence	9y 5m NPP 7y FT 7y (concurrent)	Crown AA 16y 2m NPP 12y 8y 1m NPP 6y Total: 17y 2m NPP 13y AD	Supply commercial qty drugs	During police raid of garage of units occupied by offender pursuant to search warrant offender fired shots striking constable in arm - police shots in reply fatally struck constable - offender subject of attempted armed robbery two weeks earlier in same location – unaware victim a police officer but ought reasonably to have foreseen possibility Vietnamese – commenced using drugs after death of first wife - remorse

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
49.	**Pitts** [2013] NSWSC 518 Adamson J [2014] NSWCCA 244	Excessive self defence Stabbing – general	VG (murder trial)	10y NPP 7y 6m	AD	No significant convictions	Victim attended home of offender to purchase cannabis - kicked in front door causing offender's nieces to lock themselves in back room out of fear – offender called out to victim from doorway, retrieved knife from kitchen then followed victim down hallway of unit building – altercation resulted in fatal stabbing in heart – thought he was stabbing in stomach - no animosity or hostility but misjudged threat - knew victim a former boxer Rehabilitation prospects good – difficult childhood – alcohol and drug abuse from young age – epilepsy
50.	**Bugmy** (25) [2013] NSWSC 1885 Barr AJ	Excessive self-defence Stabbing - domestic	PG	7y NPP 3y 6m		Violence, AOABH, assault & resist police. Previous custody.	Attended gathering with family and friends – consumption of alcohol and marihuana – fight broke out between 24y male victim and offender – offender fell to ground and victim continued punching – offender grabbed scissors lying nearby and stabbed victim three times to throat, face and spine – victim unreasonably refused medical treatment Under influence of drugs and alcohol – remorse - dysfunctional upbringing – alcohol and drug abuse – Aboriginal male - poor prospects of rehabilitation - need for assistance and supervision warrants longer parole period
51.	**Smith** (21) [2014] NSWSC 1069 Garling J [2015] NSWCCA 193	Excessive self-defence Shooting - general	VG (murder trial - 25% for offer)	12y NPP 9y	AA 10y NPP 7y 6m	Prior record for serious personal violence – breached parole	Shot male friend – after argument during previous evening met up with friend and two others for purpose of fist fight – small element of provocation On appeal: sentencing judge omitted to find offender perceived victim was armed with gun and willing to use it - affected evaluation of unreasonableness of response
52.	**Huang** (43) [2015] NSWSC 375 Beech-Jones J	Stabbing – general Excessive self defence	VG (murder trial – 35% for offer and co-op)	7y 10m NPP 5y 11m		nil	Stabbed fellow employee at workplace – multiple stab wounds – intent to kill – history of conflict between offender and victim – limited provocation - both Chinese nationals Voluntary surrender - genuine remorse

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
53.	**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
54.	**Anderson** (39) [2016] NSWSC 399 Hall J [2018] NSWCCA 49	Excessive self defence Stabbing - domestic	PG (20%)	12y 9m NPP 9y 6m	12y NPP 9y	Significant – includes violence – breached bail	Stabbed estranged pregnant partner once in chest – forced entry into unit victim visiting and scuffled with three females – pushed one female causing all to fall – victim retrieved kitchen knife and approached offender – stabbing occurred during struggle for knife where offender grabbed knife and stabbed victim
55.	**Misiepo** (35) [2016] NSWSC 565 Hall J [2017] NSWCCA 210	Excessive self defence Stabbing - general	VG (murder trial - 20% for offer to plead)	12y NPP 9m	AD	Personal violence, armed robbery, resist officer, supply drugs.	Armed self with knife believing victim was member of outlaw motorcycle gang – victim not armed – offender was aggressor - stabbed unarmed victim three times – intent to inflict grievous bodily harm – objective gravity of high order Difficult upbringing – drug abuse
56.	**Hamzy** (27) [2016] NSWSC 1512 RA Hulme J [2018] NSWCCA 53	Excessive self defence Shooting - general	VG Mansl (murder trial - 25% for offer to plead) s.33 (20% for offer to place on Schedule)	10y 6m NPP 7y 6m 5y 8m NPP 4y 3m Total: 11y 6m NPP 8y 6m	AD	Significant including violence and weapons offences – breached bond	Member of gang – took loaded glock pistol to meeting with estranged associate – shot at associate sitting in car 11 times – wounded associate – shot dead passenger – pre-emptive strike – residential street on Sunday afternoon – circumstances of shooting made it serious - convicted of s.33 offence as alternative to wound with intent to murder Delay of some relevance

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
57.	**McGuiness** (26) [2016] NSWSC 1806 RA Hulme J	Excessive self-defence Stabbing – general Fight	PG (15%)	8y 6m NPP 6y 4m		Reckless wounding	Became involved in incident between two groups - victim invited offender to fight – punched offender to head - victim initiated and gained upper hand in assault – offender stabbed victim once to neck – did not directly aim to stab in neck but clearly directed knife toward upper body - intention to inflict really serious harm - moderate objective seriousness. Reasonable prospects rehabilitation – ADHD.
58.	**Mitchell** (22) [2016] NSWSC 1855 Adams J	Excessive self-defence Stabbing – general	PG (10%)	3y 6m NPP 2y		Minor offences of violence – affray, assault officer	Ongoing quarrel with male victim – stabbed victim to chest during altercation – thought victim was going to break his neck - not aggressor – attacked by victim in offender's home - victim lying in wait to attack – taken unawares by ambush and responded in heat and panic – done everything possible to avoid physical confrontation - misjudgement in heat of the moment – only slightly excessive force - lowest degree of objective seriousness Aberration - will not re-offend – youth – special circumstances – remorse
59.	**Hadchiti** (20) [2017] NSWSC 292 N Adams J	Excessive self-defence Stabbing - domestic	PG (13%)	10y NPP 7y		Nil	2011 offence - lived with parents and family on semi-rural property – sister and 26y boyfriend arrived to collect sister's children - violent altercation between offender and boyfriend when he pushed offender's mother – offender stabbed in arm by victim – stabbed victim in chest and cut throat with knife being used for peeling fruit - intent to kill - honestly believed necessary to defend self and mother - serious example of offence Positive subjective case - unlikely to reoffend – remorse – good prospects of rehabilitation – delay – finding of special circumstances: youth - first time in custody
60.	**Reeves** (71) [2017] NSWSC 813 Campbell J	Assault – general Excessive self defence	PG (25%) Mansl Wilful disposal of body	7y 6m NPP 5y 4m FT 2y Total: 8y 6m NPP 6y 4m		Lengthy - armed robbery - assault.	2009 offence – victim's body discovered in 2013 at Royal National Park – physical fight – victim armed with knife and offender initially acted in self-defence and defence of friend – after victim dropped knife fist fight continued and caused death of victim – final three blows to head not reasonable self-defence - gratuitous violence - spontaneous not premeditated - low to mid-range objective seriousness.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
61.	**Gilson** (38) [2017] NSWSC 1670 Button J (Sheiles) [2018] NSWCCA 285	Excessive self defence Stabbing - general	VG (murder trial – 10% for offer to plead)	8y NPP 5y	AD	Nil	Exact circumstances of killing unclear – female offender sexually assaulted by male victim while drinking at victim's house with two friends – two days later arranged to meet victim in remote street in early hours of morning – further sexual assault resulting in single stab wound to chest in excessive self-defence – intent to inflict GBH – had indicated on Facebook prior to killing intent to harm victim – attempt to cover tracks – effect of killing on gravely ill wife and young daughter of victim Difficult background including sexual abuse by relative – prior good character – small reduction for conduct of trial
62.	**Patel** (30) [2018] NSWSC 952 Lonergan J [2019] NSWCCA 170	Excessive self-defence Assault - general	VG (murder trial - 15% for offer to plead)	9y 4m NPP 7y	AD	Nil	Female - killed female victim – victim to marry offender's friend with whom offender had been sexually involved – in confrontation offender threatened by victim with knife resulting in physical struggle - victim died by strangulation and suffocation – failure by offender to try to resuscitate or call 000 - serious offence of its kind – killing occurred in home of victim. Good prospects rehabilitation - good character - unlikely to reoffend
63.	**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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
64.	**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 that 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 H 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
65.	**Aljubouri** (26) [2019] NSWSC 180 Wilson J	Excessive self-defence Stabbing - general	PG (20%) Mansl Conceal corpse	6y 6m 2y 5m Aggregate: 7y 6m NPP 5y 7m		Drive recklessly, escape police custody - on bail.	Offender stabbed victim after struggle – confrontation initiated by victim – weapon introduced by victim - body concealed for four years – cleaned of crime scene with two co-offenders – disposal of victim's property. Family support

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
66.	**Magro** (31) [2019] NSWSC 343 Wilson J [2020] NSWCCA 25	Shooting – general Excessive self defence	VG Mansl (at murder trial – 20% for offer to plead on appeal) VG s.93G(1)(b)	Indicative 15y 3m 4y 6m Aggregate: 16y NPP 12y	AA Indicative 12y 7m 4y Aggregate: 13y 4m NPP 10y	assault police – resist arrest – drug supply offences	Over several days dispute between offender, 20y victim and victim's younger brother – victim and brother physically assaulted offender causing lacerations and bruising – offender vandalised premises and car at victim's family home – victim approached offender's home with five men making threats from driveway – offender stood on verandah brandishing then firing gun into air – both offender and victim angry and making threats – offender approached victim until 2 metres apart – fired and struck victim in neck when he took several steps forward – intent to kill – extraordinarily disproportionate response to perceived threat – culpability for manslaughter towards top of range – s.93G made more serious by danger presented to public History of substance abuse – bleak prospects of rehabilitation – personal deterrence important in view of large collection of illegal weapons – suffering from chronic pain making custodial conditions more onerous On appeal increased discount for offer to plead guilty
67.	**Russell** [2019] NSWSC 459 Hidden AJ	Shooting – general Excessive self defence	PG Mansl (12.5%) VG 2 x s.33A	10y 6m 8y NPP 6y Aggregate: 14y NPP 10y 6m		includes drugs, BES and stalking	During aggressive confrontation with two male acquaintances in street fired shots at one male hitting and killing innocent bystander in car situated between offender and male – history of animosity – earlier in day acquaintances had issued verbal threats in presence of offender's mother and girlfriend and thrown rock at offender's car smashing window Difficult background – low intelligence – learned violence from father – early drug abuse – remorse – some prospects of rehabilitation
68.	**Walcott** (28) [2019] NSWSC 443 R A Hulme J	Excessive self defence Stabbing - general	VG (at murder trial)	10y NPP 7y 6m		Nil	Single stab wound to chest – offender and victim both heavily intoxicated by drugs – harmonious friendship – bizarre account by offender of circumstances leading to stabbing – after verbal threats by victim offender deliberately armed himself with knife, approached victim, initiated physical struggle and inflicted stab wound with intention to kill - effect of drugs on both parties obvious - mid-range Good prospects of rehabilitation

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
69.	**Becker** (33) [2019] NSWSC 1205 Button J	Shooting – general Excessive self defence	PG (25%)	9y 9m NPP 7y 3m		breached parole for offence of drug dealing	Offender and victim both part of criminal group involved in drug dealing – both men armed by leader of group – both men met with leader over victim's failure to return rental car – offender shot victim once in abdomen – believed victim reaching for his firearm – offender heavily intoxicated with ice Commenced drug use and criminal record later in life
70.	**M.Basanovic** (47 at offence – 54 at sentence) [2019] NSWSC 1770 Button J Co-offender: W.BASANOVIC	Excessive self defence Shooting – general Accessory	PG (20% total) Mansl s.33	11y 2m NPP 7y 9m 7y 5m <u>Total</u>: 13y 8m NPP 10y 3m		sparse but significant – firearms and violence	Deeply entrenched in drug and criminal milieu – falling out with victim led to well-founded fear of being killed – attended business premises of victim with son intending to 'get in first' and kill victim – son fatally shot victim with gun provided by offender – victim unarmed - uninvolved employee 'accidently' shot and seriously wounded – excessive self–defence - joint criminal enterprise – offender was instigator and as culpable as son – very grave example of offence Convicted of murder at first trial (successful conviction appeal) – in segregated custody for 6 years – long history of depression and cognitive impairment from accident
71.	**Gale** (54) [2020] NSWSC 808 Ierace J	Excessive self-defence Stabbing - general	PG (25%)	12y NPP 8y		Lengthy - malicious wound inflict GBH, BES, assault, armed robbery, drug offences.	Stabbed victim during altercation over earlier incident – no provocation. Little evidence of remorse - difficult background – poor rehabilitation – drug abuse
72.	**Charters** (39) [2020] NSWSC 842 Ierace J	Excessive self-defence Assault - general	VG (at murder trial)	4y 9m NPP 2y 9m		Serious personal violence, stalk and intimidate, breach DVO, escape lawful custody, armed w/i commit indictable offence	Victim broke into home threatening victim's ex-girlfriend – offender and co-offender present – offender hit victim to head with door brace to knock unconscious and stop threat – intent to cause serious harm – well below mid-range Drug user – schizophrenia/bipolar disorder, or neurological disorder - future prospects reasonable – Aboriginal male

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
73.	**Fuller** (33) [2020] NSWSC 1580 Cavanagh J [2022] NSWCCA 203	Stabbing – general Provocation Excessive self-defence	VG (at murder trial - 25% for offer to plead)	9y NPP 6y 3m	AA 8y 4m NPP 5y 8m	Assault, contravene AVO, driving.	Stabbed victim twice after victim deliberately drove into offender's car – brought two large knives to scene - offence committed in broad daylight with many witnesses – known to each other – ongoing conflict between offender and victim and family members - SJ determined not necessary to reach concluded view as to whether verdict based on provocation or excessive self-defence Drug abuse – disadvantage - good prospects of rehabilitation – remorse On appeal: increased discount for guilty plea from 20%
74.	**Newburn** [2020] NSWSC 1878 Wilson J [2022] NSWCCA 139	Stabbing - general Excessive self-defence	PG (25%)	9y NPP 5y 9m	AA 7y 6m NPP 4y 6m	Drugs, assault police, AOABH, stalking, domestic violence, damage property, contravene ADVO, Agg BES.	Stabbed male neighbour in chest and thigh - victim was helping offender's partner retrieve her property from offender's home – victim attacked offender's home with golf club; verbally abused offender – offender in shock and afraid – took weapon and left home to confront victim – fight ensued. CCA: Previous medical and behavioural issues, drug addiction - emotional deficits made it likely offender more sensitive to the real or perceived threats and had diminished capacity to think of alternative courses of action - sentencing judge erred in objective criminality by failing to have regard to offender's perception of threat at time of offence Remorse – steps to address drug addiction.
75.	**Hawkins (No 12)** (32) [2020] NSWSC 1910 Lonergan J	Shooting - general Excessive self-defence	VG (at murder trial - 25% for offer to plead)	7y 6m NPP 5y		Assault, possess weapons, domestic violence offence.	Frightened by victim after altercation over motorbike in which offender had been suddenly stabbed and threatened - perception of threat heightened by PTSD - obtained loaded firearm and returned to victim's home to warn him – shot victim when he came out with long timber and silver implement offender thought was a shotgun Remorse – good prospects of rehabilitation

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
76.	**Black (No.2)** (35) [2021] NSWSC 77 Cavanagh J [2022] NSWCCA 17	Excessive self-defence Assault - general	PG (25%)	6y 9m NPP 4y 4m	AA 5y 10m NPP 3y 7m 10d	Lengthy - violence, B&E, larceny, dishonesty – breached parole	Offender caused male victim to stab himself during struggle - offender instigated events, threatened victim over relationship with ex-girlfriend – victim became fearful, produced knife – during struggle, twisted victim's hand so that knife entered victim's left side / chest - below mid-range – did not bring knife – no earlier assault by offender – unplanned Supportive family – acquired brain injury / cognitive impairment although no causal link with offence. CCA: erroneous guilty plea discount of 10% - correct 25% discount applied.
77.	**Davis** [2021] NSWSC 235 N Adams J	Excessive self-defence Stabbing - general	VG (murder trial - 25% for offer to plead)	5y 3m NPP 2y 9m		Nil	Male victim on drugs, armed and masked, committed home invasion upon offender and female co-offender planning to rob drug money - pointed pistol at female co-offender's head - punched offender in face with knuckledusters - fled scene – offender chased victim down street – struck victim to head with samurai sword –- pre-existing anxiety and PTSD with effects of concussion and trauma from home invasion - led to believe he had to save co-offender - moderate case of excessive self-defence Small-time dealer in cannabis with co-offender - supportive family – good character.
78.	**Sharpe (No. 7)** (18) [2021] NSWCCA 379 Bellew J	Excessive self-defence Stabbing - general	VG (murder trial)	7y 6m NPP 4y 9m		Possess weapon in detention, driving, firearms.	Intervened in altercation between father and victim – victim used knife to seriously injure offender's father – offender repeatedly stabbed victim inflicting multiple stab wounds – intent to inflict really serious bodily injury – initial response was spontaneous but subsequent multiple wounds an excessive response. Guarded prospects of rehabilitation – difficult background - family support – special circumstances – youth – early drug / alcohol abuse – PTSD.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
79.	**Smith** (56) [2021] NSWSC 928 Walton J	Excessive self defence Stabbing - domestic	VG (murder trial – 25% for offer)	7y 6m NPP 5y 6m		Not significant – traffic offences, minor assault and drug matters, property	Victim and offender neighbours in intimate relationship – victim assaulted offender in car during argument and relationship ended – next day during argument at offender's house victim returned to car and picked up metal bar – offender retrieved ornamental knives from veranda and ran at victim – stabbed victim multiple times when she brandished bar – victim had history of violence – intent to GBH – unreasonableness of response considerable but not extreme – hid body and lied to police for several hours PSTD and Alcohol and Cannabis Use Disorder linked to extreme / impulsive response – history of childhood violence and early drug use – good use of time in custody and unlikely to re-offend – some remorse – significant reduced general deterrence – special circumstances for supervision and treatment
80.	**Johnson** (38) [2022] NSWSC 404 Cavanagh J	Stabbing – general Excessive self defence	VG (at murder trial – 5% for offer to plead to mansl)	9y 6m NPP 6y 4m		Limited – spread over several years – breached conditional liberty	Spent evening at home of victim with several others – unable to start car to leave so returned to conversation with victim and second male in shed – unclear what happened but offender lashed out with sharp implement causing fatal injury to neck of victim – no previous tension or argument - significantly excessive response to any perceived threat – offence committed in home of victim and use of weapon – intent GBH only – mid-range Special circumstances
81.	**Nancarrow** [2022] NSWSC 455 Hamill J	Unlawful and dangerous – stabbing Stabbing - domestic Excessive self defence	VG (at murder trial – 25% for offer)	7y 6m NPP 4y		Record for dishonesty, drug and driving offences - breached conditional release order	Stabbed victim twice during confrontation on stairs leading up to living area occupied by offender – victim lived in caravan on property – offender deliberately armed self with knife although no intent to kill or inflict GBH – victim aggressor and angry offender would not purchase drugs for him – offender believed conduct necessary for defence – towards lower end of range Remorse – good prospects of rehabilitation – anxiety disorder – delay due to Covid

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
82.	**Bean** (46) [2022] NSWSC 783 Cavanagh J	Excessive self defence Shooting - general	PG (25%)	6y NPP 4y		Cultivate plant, supply drug.	Shot male victim following reciprocal arguments and threats due to victim having commenced relationship with offender's girlfriend – victim drove his vehicle at offender – offender shot victim whilst in car believing victim was reaching for a gun to shoot him – shot victim's shoulder blade – victim got out of car, wrestle took place – victim died on route to hospital. Troubled upbringing – PTSD – prior good character, led purposeful life, no violence – drug abuse – good rehabilitation prospects – family support.
83.	**Stanley (No.2)** (22) [2023] NSWSC 74 Lonergan J	Stabbing – general Excessive self defence	VG (Murder trial - 25% for offer)	6y NPP 3y 6m		Very limited - one offence.	Male deceased attended home of offender with others after argument – offender "called out" to fight – offender ran out of house wielding kitchen knife - waved knife around in close proximity to deceased who punched him to head - offender made contact with deceased with knife causing injuries to left side of neck and abdominal cavity - reactive, spontaneous, not planned - offence in front of offender's home contributed to perceived need to defend himself. Vulnerable in custody – *Bugmy* considerations - complex developmental trauma – substance abuse – true remorse – good prospects rehabilitation – special circumstances.
84.	**Russell** (38) [2023] NSWSC 90 Cavanagh J	Stabbing – general Excessive self defence	VG (murder trial – 25% for offer)	6y 6m NPP 4y 5m		Lengthy record	Confronted by male in own apartment, threatened and struck with axe – armed himself with knife and fatally stabbed victim when he returned to offender's unit with axe and rake – excessive self-defence – no intent to kill – force used excessive but not significantly so – below mid-range – followed victim downstairs from unit then confronted by female wielding axe - fatally stabbed female victim in pure reflex (acquitted) Aboriginal male – difficult childhood – substance abuse – good prospects of rehabilitation – good family support – remorse – suffering PTSD

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
85.	**Lupton** (30) [2023] NSWSC 412 Fagan J [2024] NSWCCA 29	Stabbing - domestic Excessive self defence	PG (25%)	9y NPP 6y 9m	AA 8y 6m NPP 5y 6m	Lengthy record – offence committed while serving community correction order	Stabbed male acquaintance once in chest during argument over use of drugs in home of offender's 9y daughter – intent to cause GBH – perceived threat no more than bruising or abrasions from blows delivered with fists or by kicking – neither assailant armed – unreasonable response by 'very great margin' Difficult childhood exposed to violence, drug abuse and sexual abuse – long-term substance abuse- genuine remorse On appeal: failed to have regard to relevance of need for drug rehabilitation and impact of Covid on custodial conditions
86.	**Carberry (No.5)** (21) [2023] NSWSC 523 Hamill J	Stabbing – general Excessive self defence	VG (murder trial – 12.5% offer and trial efficiency)	8y 9m NPP 5y 9m		Lengthy record including robbery offense - breached parole for rob in company	Three offenders involved in planned robbery of victim's car – victim lured to home of co-offender – during struggle offender stabbed victim twice to chest – knife initially produced by victim – intent to cause GBH formed quickly and in extreme circumstances Indigenous and Pacific island descent – deprived and disadvantaged childhood – *Bugmy* principles applied – reasonable prospects of rehabilitation
87.	**Roshan** (34) [2023] NSWSC 704 Fagan J	Assault – general Excessive self defence	VG	12y NPP 9y		domestic violence offences, breach AVOs	Offender offered 59y female he had just met a place to sleep in his hotel room – argument began when offender asked her to leave which she ignored –victim verbally threatened to stab offender – offender may have believed deceased held knife behind her back – victim shorter and evidently physically impaired – threat as perceived by offender could have been resolved by single blow – offender knocked victim to floor - ferocious beating and stomping of head to cause death - throat slashed multiple times and two stab wounds to throat Substance abuse – family support.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
88.	**Godfrey** (20) [2023] NSWSC 1312 Cavanagh J	Assault – general Strangulation Excessive self-defence	PG (25%)	4y 9m NPP 2y 10m		Limited history	Killed male victim by applying Brazilian jiu-jitsu hold known as "rear naked choke" – become involved in struggle with another drug addict in hallway outside unit – maintained choke hold beyond reasonable time for self-defence – degree of unreasonableness not extreme or high – persistence of lawful conduct – did not use available weapon Very difficult and traumatic teenage years with violence, drugs and mental health issues reduced moral culpability – remorse – excellent prospects of rehabilitation
89.	**Borja** (18) [2024] NSWSC 44 Weinstein J	Stabbing – general Excessive self defence Fight - stabbing	PG (10%) Manslaughter s.35(4) s.35(4)	Indicative: 7y 2m 3y NPP 1y 10m 4y NPP 2y 6m Aggregate: 9y 6m NPP 5y 9m		nil	Stabbed three males during violent fight in public reserve between two groups – dispute over housing between one member of each group – all victims unknown to offender at time of offence – stabbed two victims, one unarmed, in arm, back and chest – fatally stabbed third victim once in neck in act of excessive self-defence – victim armed with unpowered reciprocating saw – perceived threat from bigger man armed with heavy saw in context of mayhem of melee – no intent to kill – single stab wound - unreasonable response – reckless wounding offences just below and somewhere above mid-range Complex psychological history – sexual abuse, dysfunctional family life and domestic violence – substance abuse – PTSD – *Bugmy* principles applied - developing insight and remorse – youth and immaturity – prospects of rehabilitation guarded – special circumstances
90.	**Steele** (76) [2024] NSWSC 214 Davies J	Excessive self-defence Stabbing - domestic	PG (25%)	6y 9m NPP 3y 6m		Nil	Single stab wound to neck of adult son at their home during family argument using kitchen knife – victim approached offender quickly – accepted responsibility but unable to explain or recall inflicting stab wound – relatively impulsive offending. Just below mid-range of objective seriousness. Good character – in remission from leukemia – no concern about reoffending – remorse – significant variation of statutory ratio given age and health.

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91.	**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
92.	**Britton** [2024] NSWCCA 138	Motor vehicle Unlawful and dangerous act - misc Excessive self defence (acting in defence of another)	VG Manslaughter Manslaughter	Indicative 5y 5y Aggregate 6y NPP 3y	AA Indicative 4y 4y 3m Aggregate 5y NPP 2y 3m	Assault, drugs, contravene AVO, high range PCA. On bond.	Female - two female victims including own daughter - applicant's family in physical altercation with another group – applicant saw daughter lying on ground with KW punching her – applicant acting in defence of daughter drove motor vehicle towards KW intending to nudge KW away from daughter – caused deaths of both KW and daughter by crushing them with vehicle – degree to which applicant responded to threat to her daughter not excessive by a significant margin – well below mid-range Admission by applicant that she was driver facilitated administration of justice to a significant degree – extreme remorse for daughter's death, but not complete for victim KW - childhood involved sexual, physical abuse - dysfunctional upbringing - extra curial punishment in death of own daughter - special circumstances. CCA: SJ failed to take into account material consideration (acting in defence of daughter) in assessing objective seriousness.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
93.	**MR (No.5)** (17) [2024] NSWSC 912 Huggett J	Stabbing – general Excessive self defence	VG (at murder trial – 25% for offer)	4y 6m NPP 2y 6m		Breached bond for AR – no other record	Stabbed male victim once in chest outside house at night – believed victim pulling knife from pants after physical altercation – offender had punched victim once to head after victim had accused offender's girlfriend of indecent assault and acted in provocative manner – spontaneous and unplanned act – carried knife for protection after being victim of stabbing several years earlier – did not attend house for purpose of violence – intended GBH – lower end of objective seriousness Aboriginal male - history of family violence, incarceration and substance abuse – cognitive impairment and learning disorder – positive engagement with counselling and education – some detention incidents – remorse – reasonable prospects of rehabilitation – special circumstances permitting sentence to be served as juvenile
94.	**JM** (17) [2024] NSWSC 1345 Dhanji J	Excessive self - defence Stabbing – general Fight - stabbing	VG	5y NPP 2y 9m		Nil (mental health dismissal – treated as clear record)	Violent melee outside fast food restaurant – 17y victim had been aggressive and threatening towards offender in preceding days – sought out offender and initiated confrontation – at one point offender assaulted while on ground by group – perception of danger increased by mental health and cognitive deficiencies – swung knife at victim three times – significant level of threat – objectively exposed to risk of serious injury or death – believed necessary to defend self but not reasonable response – failed to take potential escape route – intent GBH only Long term impairments – anxiety, FASD and ADHD – cognitive and verbal deficits – very good prospects of rehabilitation – unlikely to re-offend – co-operation and conduct during trial – vulnerability in custody

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
95.	**Bowden** (21) [2024] NSWSC 1428 Yehia J	Excessive self-defence Stabbing - general	PG (25%)	7y NPP 4y 1m		Nil	Stabbed male deceased, inflicted fatal wound with knife - in company of three co-offenders – joint criminal enterprise – altercation - deceased swinging metal object, screwdriver - offender motivated by desire to retrieve property stolen by deceased - deceased with two others had earlier committed armed "home invasion" with gun at offender's home inflicting violence on offender and threatening family. Complex PTSD materially contributed to offence – disadvantaged deprived background – Bugmy – youth - very good prospects rehabilitation - unlikely to reoffend.
96.	**TH** (15) **KT** (15) **LT** (14) **DR** (14) [2025] NSWSC 1578 Cavanagh J	Stabbing – general Excessive self defence Accessorial Juvenile offender Fight	PG (25%) PG (25%) PG (25%) PG (25%)	4y 3m NPP 2y 3m 3y NPP 1y 10m 2y 10m NPP 1y 8m 2y Community Corrections Order		Violence and robbery – breached conditional liberty Lengthy – violence and property – breached bonds Violence ad theft – breached conditional liberty – unable to comply with court orders Very limited record – breached conditional liberty	39y female fatally stabbed during pre-arranged fight between two groups of teenage girls – groups exchanged insults and threats of violence through group chat – offenders attended house, three armed with knives – second group, including victim, armed with bat and improvised weapons initiated attack on offenders – TH given knife – stabbed victim three times in act of excessive defence of self and KT – excessive force not high – moving backwards - below mid-range - KT, LT and DR sentenced on basis of joint criminal enterprise to commit affray with foresight of possible serious harm – acted in defensive manner throughout affray – low to very low range – DR struck to head with plank of wood TH – significant reduction in moral culpability due to background of significant trauma and disadvantage –– lack of remorse and insight – some positive steps in rehabilitation while in custody on remand KT – reduction in moral culpability due to background of significant trauma and disadvantage – mental health issues - continued violence in custody LT - reduction in moral culpability due to background of significant trauma and disadvantage – uncertain prospects of rehabilitation DR - reduction in moral culpability due to background of trauma – genuine remorse – good prospects of rehabilitation – positive period in community since arrest

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
97.	**Fisher** [2026] NSWCCA 27	Excessive self-defence Stabbing - general	PG (25%)	9y NPP 5y	AA 5y 3m NPP 3y	Resist arrest, stalk/intimidate, assault police, armed intent commit indictable off, poss proh weapon, pistol, knife and ammunition, reckless wound, drug possession, contravene AVO, common assault – breached parole.	Victim believed offender interfering in his relationship with partner S - victim intoxicated, aggressive - angry at not being allowed back into S' unit, where offender staying – victim instigated fight, assaulted offender outside while shouting abuse – attacked offender in unprovoked and somewhat crazed way - during struggle offender inflicted single stab wound to victim once in chest – unplanned - no intent to kill. Drug addiction from young age - remorse – special circumstances

Last Updated: March 2026