

Manslaughter

Provocation – Old Provisions

s 23(1) (NSW) *Crimes Act*

Where it appears the act or omission causing death was done or omitted under provocation jury shall acquit accused of murder and find accused guilty of manslaughter.

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

Amended 13.6.2014

For offences committed on or after 13.6.2014 see new table: *extreme provocation*

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Hill (1981) 3 A Crim R 397	Provocation Shooting – domestic	VG Murder		Conviction AA Manslaughter substituted 4y 6m NPP 1y		Shot husband after many years of physical abuse - on night of killing husband had returned home drunk and violent
2.	Bogunovich (1985) 16 A Crim R 456	Provocation Stabbing – domestic	PG	4y Bond			Stabbed husband after long history of domestic violence – on night of killing husband had struck offender outside club
3.	Cotton NSW SC Hunt J 28.6.1990	Provocation Assault – general Accessory Juvenile offender	VG	MT 2y AT 18m			Female - assaulted male victim with de facto - could not determine which blows caused death - victim had verbally insulted offender Intellectual disability and limited insight

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4.	Low (1991) 57 A Crim R 8	Diminished responsibility Provocation Assault - domestic	VG	Bond	Crown AA MT 2y AT 2y		Killed fiancée with claw hammer after she attacked him - brain damage as result of attack by victim with hammer
5.	Whalen NSWCCA 5.4.1991	Provocation Stabbing – domestic	PG	MT 5y AT 3y	AD		Killed husband with carving knife and axe - relationship had deteriorated - on day of killing verbally and physically abused by victim
6.	Mathews (42) NSWCCA 17.4.1991	Provocation Shooting - domestic	VG Murder s.33 s.35 Armed with intent		Conviction AA Manslaughter verdict substituted MT 9y 8m 22d AT 6y 2m 11d		Custody dispute with parents-in-law - killed mother-in-law and badly wounded father-in-law
7.	Gardner NSWSC Wood J 27.3.1992	Diminished Responsibility Provocation Shooting – domestic	PG	7y GBB			Shot husband under extreme stress – husband very ill with MS and physically dependent - child suffered cerebral palsy and was also utterly dependent - victim terrorised offender and kept gun beside bed – shot victim once, then buried and reported him as missing Extreme use of mechanisms of denial and repression developed to cope with major childhood traumas - son died in lead-up to trial - pregnant at time of sentencing - wholly exceptional case
8.	Peterson NSWSC 22.5.1992 Enderby J	Provocation Stabbing - domestic	PG	5y Bond (PSC 5m)		unimportant	Stabbed step brother in fight - element of self-defence - victim aggressively picked fight with offender - both had been drinking - no premeditation History of violence at hands of stepfather and brothers
9.	Spencer NSWSC Mathews J 18.12.1992	Provocation Stabbing – domestic	PG	3y PD		Nil	Killed de facto husband with single stab wound - history of domestic violence - victim physically and verbally abusing offender Fragile mental state

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10.	Morabito (1992) 62 A Crim R 82	Provocation Shooting – domestic Accessory	VG	MT 8y AT 2y 6m	AD	nil	Arranged for lover to shoot husband during day leave from gaol - victim had record for violence, involved in organised crime and history of domestic violence - lured victim to place of killing and supplied gun - genuine fear that victim would kill her and children if he found out about affair
11.	Panozzo NSWCCA 25.3.1993	Provocation Shooting - domestic	VG	MT 8y AT 2y 6m	AD		Shot estranged wife in front of two young daughters at point blank range - angered by finding love letters to another man
12.	Jacky NSWSC Campbell J 10.6.1993	Provocation Assault – general	PG	MT 2y 6m AT 2y 6m		lengthy	Intoxicated - Aboriginal male woke to find himself being homosexually assaulted by victim
13.	Jenkins NSWCCA 14.7.1993	Provocation Motor vehicle	VG	MT 2y 6m AT 3y 6m	AA MT 1y 6m AT 2y 6m	nil	Chinese woman met male victim with intention of plutonic relationship - victim attempted to force intercourse and offender took car with intention of escape - victim stood in front of car and was run over three times On appeal - SJ had not expected offender would serve sentence at gaol overlooking car park where offence took place
14.	Nguyen NSW SC Allen J 23.9.1993 (1995) 36 NSWLR 397	Stabbing – domestic Provocation	VG	MT 2y 3m AT 9m	Conviction AD	Nil	Stabbed sister's brother in law during fight - argument over treatment of sister - no intent to do GBH - intended to show victim could not continue to treat sister badly and to prevent continuation of fight.
15.	Thomas NSWSC Dunford J 3.11.1994	Provocation Stabbing - domestic	PG	MT 3y 6m AT 3y		mal wounding and assaults	Stabbed sister's ex de facto - history of violence - sister raped by victim - night of stabbing fight broke out between offender and victim as victim tried to approach sister
16.	Pavia NSWCCA 9.12.1994	Provocation Assault - domestic	VG	MT 9y AT 3y	AA MT 7y AT 3y	nil	Intense but turbulent homosexual relationship with victim - bashed victim with barbell and statuette - previous assaults on victim

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17.	Alexander (1994) 78 A Crim R 141 NSWCCA 24.2.1995	Provocation Shooting - domestic		MT 2y 6m AT 3y 6m	Crown AD	nil	Shot wife during argument - provocation was victim's attitude and behaviour to offender's children from first marriage
18.	Gilham (25) NSWSC Abadee J 7.4.1995	Provocation Stabbing - domestic	PG	5y Bond		nil	Stabbed brother who had just killed their parents Remorse - excellent prior character and prospects for rehabilitation
19.	Dunn (19) NSWSC Ireland J 21.9.1995 NSWCCA 28.10.1997	Provocation Assault – general	VG	MT 7y AT 4y	AA (to make technical corrections to date)	not serious	Met stranger on cycleway late at night - physical altercation resulted in death - homosexual provocation - returned to scene to either inflict further violence or ensure that victim was dead
20.	Vella (33) NSWCCA 15.12.1995	Provocation Assault – general	VG	MT 10y AT 4y	AD	minor	Attacked by victim with iron bar without warning or provocation - during ensuing fight overpowered victim and assaulted him with bar - disposed of body without knowing if dead Below average intelligence
21.	McIntyre NSWSC McInerney J 15.3.1996	Provocation Stabbing – domestic	PG	MT 2y AT 4y		nil	Stabbed de facto husband when he grabbed her hair - prelude on previous occasions to serious assault - relationship characterised by inhumane treatment of offender - consumed drugs and alcohol
22.	Nelson NSWCCA 25.6.1996	Provocation Assault - domestic	PG	MT 8y AT 6y	AA MT 6y AT 4y		Female - with brother bashed boarder in house believing he had molested offender's daughter - assaulted at house, then taken to deserted country area and brother continued assault with metal baseball bat Brother pleaded guilty to murder
23.	Khan (1996) 86 A Crim R 552	Provocation Stabbing - domestic	VG	MT 2y AT 3y	Crown AA MT 4y AT 2y	nil	Stabbed wife's lover - devout Muslim - delay between finding wife with lover and arming himself

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24.	Isaacs (24) (1997) 41 NSWLR 374 (1997) 90 A Crim R 587	Provocation Assault - domestic	VG	MT 5y AT 4y	AD	nil	Woke from sleep and beat violent flatmate with dowel
25.	Cheung (19) NSWCCA 12.3.1998	Provocation Fight - stabbing Stabbing - general	VG	MT 6y AT 2y	AD	nil	Fracas in street involving number of people following earlier argument in restaurant - two men stabbed, one fatally in chest seven times - victim had attacked offender with club-lock during fight - took knife anticipating violence
26.	Young (mid 30s) NSWSC Levine J 20.5.1998	Provocation Stabbing – domestic	PG	MT 3y AT 3y		2 bonds, mal damage, assault	7 stab wounds to husband - victim started assaulting offender in argument about wine consumption - offender 'snapped' and went into frenzy - no premeditation Stormy and volatile relationship - offender not passive, helpless victim - some prospects of rehabilitation
27.	McEwan (35) NSWSC Barr J 9.7.1998	Provocation Shooting - general	VG	MT 5y AT 3y		no violence	Male drinking heavily with ex-girlfriend and her de facto - de facto began hitting girlfriend - offender obtained gun from house and shot de facto - motivated by fear for ex-girlfriend - no prior animosity or jealousy Tragic childhood, including sexual abuse - highly suicidal in gaol - good rehabilitation in gaol
28.	Dang [1999] NSWCCA 42	Provocation Shooting – general	VG Manslaughter Mal wound	MT 4y 6m AT 1y 6m FT 4y (concurrent)	Crown AD	nil	Female had argument with female victim where victim had produced rifle - two weeks later another argument ensued - offender loaded rifle out of fear victim might use it against her - victim shot during argument - high level of criminality and culpability - also wounded victim's daughter.
29.	Green (22) [1999] NSWCCA 97	Provocation Stabbing - general	VG	MT 8y AT 2y 6m	AD	drug offences and assault	Stabbed 36y friend when friend made homosexual advances on him - traumatised by father sexually assaulting sisters - stabbed victim with poultry shears multiple times

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30.	Korhonen (16) [1999] NSWSC 933 Hulme J (K) [2000] NSWCCA 24	Diminished responsibility Provocation Juvenile offender Stabbing - domestic	VG	4y GBB	Crown AD	insignificant	Stabbed man he had been staying with – previous week had been sodomised by victim – provocation very high Developmental delays and profoundly disturbed - appalling childhood - gross psychiatric disturbances - ill-equipped to deal with stress - positive evidence of rehabilitation
31.	Howard (31) [1999] NSWSC 1228 Bell J	Provocation Stabbing - domestic	VG (at murder trial)	MT 5y AT 1y 6m		one juvenile offence	Stabbed neighbour during argument at offender's flat Good prospects of rehabilitation
32.	Butcher (50) [2000] NSWSC 92 Barr J	Provocation Shooting - domestic	PG	MT 2y 6m AT 2y		nil	Shot friend in chest after finding him engaged in sexual intercourse with wife Genuine remorse - depressed at time - will not re-offend
33.	Kelly (30) [2000] NSWSC 701 Barr J	Provocation Stabbing - domestic	PG	7y NPP 3y 6m		irrelevant	Stabbed victim during altercation in kitchen - victim started physical fight pushing offender to ground and causing wound to head - offender feared further assault may cause death because of earlier brain injury - stabbed victim seven times in chest and abdomen with fishing knife - intent to do really serious injury - culpability low Aboriginal male - immediate assistance to victim - confession to police - genuine remorse
34.	Vandersee (47) [2000] NSWSC 916 James J	Provocation Assault – domestic	VG (at murder trial)	8y NPP 5y		nil	Bashed sleeping husband to death with blunt end of a tomahawk or axe - provoked by domineering, controlling and cruel behaviour of victim over many years - medium degree of provocation Suffering mild depression at time of offence - made immediate admissions to police
35.	Ko (26) [2000] NSWSC 1130 Kirby J	Diminished responsibility Provocation Stabbing – domestic	PG	4y NPP 18m		Nil	Stabbed husband 17 times - married victim after he sexually assaulted her - unhappy and violent marriage - victim forced offender to have abortion and seeking divorce - offender isolated and suffering major depression - attempted suicide Exemplary life prior to offence - model prisoner - genuine remorse

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36.	Dimond (22) (2000) 118 A Crim R 188 [2000] NSWSC 1212 B-Parker AJ	Provocation Stabbing - general	PG	6y NPP 4y 6m		record for some violence	Stabbed male victim once in chest with steak knife - provoked by behaviour of victim taunting offender and taking cap and t-shirt - armed self with knife and stabbed with intention to cause really serious harm Displayed aggressive personality disorder from early childhood - real risk of re-offending unless aggression dealt with
37.	Dally (47) (2000) 115 A Crim R 582 [2000] NSWCCA 162	Provocation Stabbing - domestic	VG	MT 6y AT 2y	AD	assault 21 years ago	Stabbed flatmate once in chest during argument over accommodation arrangements - picked up carving knife and victim stabbed when he pushed offender around – no pre-meditation Lonely life culminating in alcohol dependency - remorse
38.	Veech (25) [2001] NSWSC 68 Wood CJ at CL	Provocation Shooting – general	VG (at murder trial)	6y 6m NPP 4y 11m		Nil relevant	Shot male friend four times with rifle after loud and aggressive confrontation outside offender's house - shot victim twice while standing and twice while victim helpless on ground - provocation significant and annoying but not extreme - struck victim with rifle butt after shooting him - intent to kill. Youth - unlikely to re-offend in this way - suffering physical effects of motor accident - benefit from counselling
39.	Scurr (34) [2001] NSWSC 727 Wood CJ at CL	Substantial Impairment Provocation Shooting – general	VG (at murder trial) Manslaughter Manslaughter	6y NPP 3y 6y NPP 3y <u>Total:</u> 7y 3m NPP 4y 6m		Nil relevant	Deliberate shooting of two men at home of victim M – offender a central witness in fraud case against victim M – over several months threats made against offender, wife and children of victim in fraud case linked to both victims – shot fired into home of offender – frustrated at perceived inactivity of police investigating threats – after death threat against parents made by phone call drove from Katoomba to home of one M in Sydney – fired eight shots at victim M – second victim also shot - both provocation and substantial impairment resulting from depressive illness Excellent subjective case – out of character – extremely good prospects of rehabilitation – minimal prospects of re-offending – remorse – voluntarily surrendered to police - assaulted in custody due to role as witness

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
40.	Bolt (19) [2001] NSWSC 747 Hidden J (2001) 126 A Crim R 284 [2001] NSWCCA 487	Provocation Stabbing - domestic	VG (at murder trial - 25% for offer)	5y 6m NPP 2y 6m	Crown AA 6y NPP 3y 6m	criminal record related to difficult background	Stabbed mother to death - extremely dysfunctional childhood caused by violent and abusive treatment by mother - earlier in afternoon mother had ordered mentally ill daughter to leave house – lost control when mother verbally abused offender and poked him in chest - degree of provocation high Unlikely to re-offend in this way – need for much rehabilitation - genuine remorse
41.	Cardoso (22) [2001] NSWSC 775 Hulme J (2003) 137 A Crim R 535 [2003] NSWCCA 15	Provocation Stabbing – general Fight - stabbing	VG (at murder trial - 12.5% for offer on appeal)	8y NPP 5y	AA 7y NPP 4y	nil	Stabbed male stranger in head during confrontation in shopping centre - offender left fight and obtained table knife before returning and stabbing victim - high degree of force required - moderate degree of provocation Offender more sensitive because of refugee background - refugee from East Timor - difficult background - remorse - limited English - isolated
42.	See (30) [2001] NSWSC 776 Hulme J	Provocation Stabbing - general	VG (at murder trial) Manslaughter PG s33B	7y NPP 4y 6m FT 12m (concurrent)		nil	Stabbed fellow employee to death with carving knife and meat cleaver - 30 wounds - provoked by puerile teasing - chased another employee with meat cleaver History of being teased and picked on - Malaysian - working illegally - isolation in custody - little English
43.	Gardiner (46) [2001] NSWSC 1147 Whealy J	Provocation Stabbing – domestic	PG (12%)	7y 11m NPP 5y		Lengthy minor matters only	Stabbed flatmate during argument over rent money - victim aggressive and abusive - stabbed victim in neck - attempted to save victim Special circumstances - no previous custody.
44.	Ladd (41) [2001] NSWSC 1055 James J	Provocation Assault - domestic	PG (20%)	10y NPP 7y		1977 murder of female in WA, AOABH	Saw friend in bed with offender's 9y son - struck victim with wine bottle over head and punched him several times in head Single parent of no fixed abode – binge drinker – almost completed science degree while in custody – anger management issues

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45.	Griffis (33) [2001] NSWSC 1154 McClellan J	Provocation Shooting - general	PG (30% combined)	7y NPP 5y 3m		minor juvenile offence	Went camping with male friend - during physical argument received burn injuries to face - retrieved gun and shot friend in head - intoxicated and under influence of cannabis Limited intelligence - good work record - problem with alcohol - unlikely to re-offend - remorse - co-operated with police
46.	Popovic (29) [2001] NSWSC 1118 O'Keefe J [2003] NSWCCA 103	Provocation Shooting - general	PG Manslaughter VG 9 x mal wound	10y NPP 6y FT 3y <u>Total:</u> 12y NPP 8y	AD	firearms offences	Discharged 2 shots from double barrelled shot gun in busy street - injured 9 bystanders - shot dead male – victim had been harassing and threatening offender over long period of time - offender in relationship with victim's ex-girlfriend - formed intent to kill prior to day of shooting - no fear for safety at time of shooting Some contrition - good prospects of rehabilitation
47.	Lynch (48) [2002] NSWSC 1140 Whealy J	Provocation Stabbing – domestic	PG (15%) Manslaughter Mal Wound	7y 8m NPP 5y 9m 4y 3m NPP 3y 2m <u>Total:</u> 8y 8m NPP 6y 9m		record related to drug addiction, AOABH and DV	Stabbed estranged wife and lover found in bed together - killed male – sentenced for malicious wounding of wife - build up of anger, distress, humiliation and jealousy over afternoon and evening - no intent to kill - degree of provocation quite high Remorse
48.	Tindall (35) [2002] NSWSC 1108 Hidden J	Provocation Assault - domestic	PG	5y 6m NPP 2y 6m		minor assault matters	Assaulted brother with hammer over head - victim acquitted of murder of father - offender chief Crown witness - subsequent to trial victim harassed offender for 5 months with physical abuse and threats - grave and cumulative provocation
49.	Johnson (22) [2003] NSWCCA 129	Provocation Stabbing - general	VG (at murder trial - 10% on appeal for offer)	10y NPP 7y 6m	AA 9y NPP 6y 9m	Breached parole for assault w/i to rob w/ wounding (stabbing)	Sexually abused by victim when 13y – went to victim's house seeking cannabis – fight over sexual advances resulted in stabbing in chest Protective custody – behavioural problems exacerbated by abuse

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50.	KMB (32) [2003] NSWSC 862 Bell J [2005] NSWCCA 185	Provocation Assault - domestic	VG (at murder trial)	6y NPP 3y 6m	AD	Nil	Female – prolonged assault on Uncle who admitted sexually interfering with offender's children – intent to inflict GBH – offender caring for victim whose mental health deteriorating Mother to 3 young children – prior good character – good prospects of rehabilitation
51.	Marlow (27) [2003] NSWSC 1130 Studdert J	Provocation Stabbing - domestic	VG (at murder trial – 18% for offer)	9y NPP 6y 9m		Nil	Fatal stabbing with kitchen knife in victim's home – extremely violent killing – sexually assaulted by victim on 16 th birthday – subsequent consensual sexual encounters - victim attempted further sexual assault night of killing
52.	Walsh (32) (2004) 142 A Crim R 140 [2004] NSWSC 111 Howie J	Provocation Assault – domestic	VG (at murder trial – 15% for offer)	7y 3m NPP 5y 6m		Lengthy record including violence	Became involved in violent struggle with male acquaintance staying at offender's premises – struck victim to head with hammer 8-9 times – victim aggressive all evening – substantial provocation – body dismembered and dumped in river – attempt made to cover offence Poor health
53.	Williams [2004] NSWSC 189 O'Keefe J [2005] NSWCCA 99	Provocation Assault - domestic	VG (at murder trial)	14y NPP 10y 6m	AA 12y NPP 9y	Lengthy including violence	Bashed de facto wife with heavy metal weight lifting bar – low level of provocation – hid body in bushland – returned and re-hid body in another area No remorse – future dangerousness
54.	Clarke (50) [2004] NSWSC 1125 Barr J [2008] NSWCCA 36	Provocation Stabbing - domestic	VG	8y NPP 6y	AD	Lengthy record for dishonesty offences	Stabbed neighbour after daughter complained of violent and heated argument – intent to inflict GBH – single thrust caused death – opportunistic – provocation not high – mid-range seriousness Moderate prospects of rehabilitation
55.	Hamoui [No.4] (27) [2005] NSWSC 279 Kirby J	Provocation Assault – domestic	VG (at murder trial)	11y NPP 8y		Serious offences involving violence – breached bail	Strangled girlfriend and left body in car –circumstances of killing not clear – victim bound at some stage – intent to kill – gratuitous cruelty – victim's relationships with other men probable provocation Physically and emotionally abused as a child – no contrition but evidence of rehabilitation in jail – resumed religious studies – engaged to sister of another inmate – possible mental illness

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56.	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
57.	Dunn (60) [2005] NSWSC 1231 Latham J	Provocation Stabbing - domestic	VG (at murder trial – offer to plead)	8y NPP 5y		Nil	Stabbed female flatmate during argument – long history of taunting by victim – intent to inflict GBH – offence slightly above mid-range Socially isolated – organic brain damage due to alcoholism – genuine contrition
58.	Bullock (25) [2005] NSWSC 1071 Buddin J	Provocation Stabbing - general	VG (at murder trial – discount for offer)	8y NPP 5y		Minor	Punched by victim in hotel causing broken nose – walked to father's unit nearby and retrieved knives – on approaching victim outside hotel victim attempted to punch and offender stabbed victim multiple times – significant provocation – intent to cause GBH Immediate remorse
59.	Russell (48) [2006] NSWSC 722 Newman AJ	Provocation Stabbing - domestic	PG	6y NPP 3y			Female – stabbed de facto husband during confrontation – history of domestic violence – intent to inflict GBH Mildly intellectually handicapped – difficult personal life – brain injury from accident
60.	Moore (72) [2006] NSWSC 1369 Bell J	Provocation Shooting - domestic	PG (25%)	4y 6m NPP 2y		Nil	Shot 41y neighbour from housing commission flats – lengthy period of confrontation intensified during previous 6 days – unsuccessful in attempt to obtain AVO – significant distress and turmoil – threatened by victim who was a drug user with mental problems Community involvement – impeccable character – early stages of dementia and some hearing loss
61.	Berrier (22) [2006] NSWSC 1421 Hidden J [2009] NSWCCA 40	Provocation Stabbing - general	VG (at murder trial)	9y NPP 6y	AD	Minor	History of animosity and threatening behaviour by victim – stabbed during fight – single stab wound – significant level of provocation – intent to inflict GBH Remorse – low intellectual ability

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62.	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) Manslaughter Mal wound Sched: 4 off	8y 3m NPP 5y 3m FT 18m <u>Total</u> 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
63.	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) Manslaughter Mal wound Assault	8y 3m NPP 5y 3m FT 18m FT 4m <u>Total</u> 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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64.	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%) Manslaughter Mal wound	8y 3m NPP 5y 3m FT 18m <u>Total</u> 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
65.	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) Manslaughter Mal wound	7y 9m NPP 4y 9m FT 18m <u>Total</u> 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

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66.	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) Manslaughter Mal wound	7y NPP 4y 6m FT 12m <u>Total</u> 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)
67.	Frost [2008] NSWSC 220 Barr J	Provocation Assault – domestic	PG	6y NPP 3y 6m		Nil	Ex-wife visited from Philippines and asked to take youngest daughter back for purpose of prostitution – choked ex-wife – panicked and buried body – left trail suggesting victim returned to Philippines
68.	Forrest (48) [2008] NSWSC 301 Studdert AJ [2009] NSWCCA 11	Provocation Stabbing - general	PG (25%)	7y 6m NPP 5y 9m	AD	No serious violence	Stabbed male acquaintance with kitchen knife – victim threatening to stab female – entered house to retrieve knife – significant degree of provocation Genuine remorse – effected by incident many years prior where innocently involved in stabbing
69.	Mitchell (24) [2008] NSWSC 320 Howie J	Provocation Assault - general	PG (17.5%) Manslaughter Arson	8y 3m NPP 4y 6m FT 2y <u>Total:</u> 9y NPP 5y 3m		Primarily dishonesty and driving offences	Assaulted male acquaintance with hammer in victim's apartment – response to being sexually assaulted – set fire to door of apartment History of mental health problems – drug and alcohol problems - remorse

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
70.	Ferguson (36) [2008] NSWSC 761 Barr J	Substantial impairment Provocation Stabbing - domestic	PG	7y NPP 4y		Nil	Female entered sexual relationship with 22y male – unhappy relationship involving physical abuse, drug abuse and threats to kill – stabbed victim during argument – impulsive and sudden offence – element of provocation Major depressive disorder Also suffering amphetamine abuse disorder – sexually abused as a child – remorse – prior good character
71.	Stevens (40) [2008] NSWSC 1370 Hall J	Provocation Assault - domestic	PG (20%)	8y 9m NPP 6y 7m		Some assault	Killed de facto wife – spleen injury caused abdominal bleeding – evidence of other injuries – both had history of drug addiction – under influence of prescribed medication at time of killing – unpremeditated offence – low level of provocation from victim's drug addiction and failure to properly care for children
72.	Chant (41 – 48 at sentence) [2009] NSWSC 593 Howie J	Provocation Shooting - domestic	PG (5%) Manslaughter Interfering with human remains	4y 9m NPP 3y 4m FT 10m <u>Total:</u> 5y 4m NPP 3y 11m		nil	Female shot husband in head during argument – physically abusive relationship – gun initially produced by victim – dismembered body and disposed of in various locations Son assisted in hiding body
73.	Lovett (21) [2009] NSWSC 1427 Barr AJ	Provocation Stabbing - domestic	VG (at murder trial)	10y 8m NPP 8y		Record for violence offences – breached conditional liberty	Aware victim at house of estranged partner – went to house, uninvited, at night, with knife – observed victim and partner having sexual intercourse – stabbed victim once in chest – assaulted victim with garden stake, dragged him out onto lawn and kicked body
74.	Gabriel (64) [2010] NSWSC 13 Price J	Provocation Assault - domestic	VG (at murder trial – 10% for offer)	9y 3m NPP 6y 3m		nil	Struck wife to head with skutch hammer – history of arguments with wife and suspected infidelity on her part – degree of provocation not high – threatened by wife with knife – extreme degree of violence – element of self defence Also suffering early dementia, depression and underlying conditions – remorse – poor health

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
75.	Lynch (24) [2010] NSWSC 952 Studdert AJ	Provocation Fight – stabbing Stabbing - general	PG (15%)	7y NPP 5y		minor	Stabbed victim lightly to back of neck then fatally to stomach during confrontation between group of people outside house at night – all drinking – used work knife – intent to cause GBH – provocation of pushing offender's fiancé significant and shortly before stabbing Genuine remorse – good character
76.	Goundar [2010] NSWSC 1170 Kirby J [2012] NSWCCA 87	Provocation Stabbing - domestic	VG (at murder trial – 17.5% for offer)	10y 8m NPP 8y	AD	Breached bail	Stabbed male friend during confrontation at ex-marital home – angry because victim had commenced sexual relationship with offender's estranged wife – planned confrontation although use of knife spontaneous – ferocious and sustained attack - placed in bath and left to die – intent to kill – disposed of body in bush with estranged wife – well above mid-range Fijian Indian – drinking problem and adjustment and depressive disorder at time of offence
77.	Vulovic (No.4) (53) [2012] NSWSC 212 Johnson J [2013] NSWCCA 340	Provocation Stabbing - domestic	VG (at murder trial)	9y NPP 6y	AD	Record including assault	Stabbed male acquaintance during violent argument in offender's house – both parties intoxicated - provocative words and violence from victim – offender partially strangled – intent to inflict GBH – substantial level of objective gravity Reasonable prospects of rehabilitation
78.	Singh (22) [2012] NSWSC 637 McClellan CJ at CL	Provocation Stabbing - domestic	VG (at murder trial – 25% for offer)	8y NPP 6y		nil	Cut wife's throat with a Stanley knife during argument by ferocious attack – during argument verbally abused by brother-in-law on telephone and by victim – victim threatened to leave and have offender kicked out of country - married in India so both could move to Australia – long history of marital disharmony and violence – brutal and violent attack Immature with no family or friends for support – suffering psychiatric disorder at time of offending – good prospects of rehabilitation
79.	Won [2012] NSWSC 855 Fullerton J	Provocation Stabbing - domestic	VG (at murder trial – 25% for offer to plead)	7y 6m NPP 5y		Nil	Stabbed male acquaintance in arm severing arteries – stab wounds to back, chest and abdomen – found victim having sex with offender's wife – intent to kill Korean – exemplary character

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
80.	Butler [2012] NSWSC 1227 Button J	Provocation Assault - general	PG (25%)	7y NPP 4y 6m		Nil	Street prostitute – assaulted client with brick after victim made fantasy references to sexual assault – offender had suffered sexual assault as a child and been sexually assaulted a month earlier - victim's comments provoked / caused offender to black out and assault victim Special circumstances - longstanding psychological problems - drug dependence - substantial adjustment on return to community - troubled upbringing – good progress rehabilitation.
81.	Hassan (54) [2014] NSWSC 280 Garling J [2018] NSWCCA 213	Provocation Stabbing - domestic	VG (murder trial - 25% for offer)	12y NPP 9y	AD	nil	Stabbed wife multiple times during argument at family home – responding to low level verbal provocation – brutal and vicious assault on wife cowering under blankets in bed Born in Sudan – relatively safe childhood – good character
82.	Armstrong (28 at time of offence) [2014] NSWSC 700 Adamson J [2015] NSWCCA 273	Provocation Assault - general	PG (5%)	13y 3m NPP 9y 11m	AA 12y 3m NPP 9y 2m	Offences of violence both before and after manslaughter	1991 – fatal assault - killed male acquaintance after sexual encounter – lost control when advised by victim he was HIV positive – brutal and savage attack – great fear of AIDS in 1991 Lack of remorse – HIV – assaulted in gaol On appeal - no discernible change in sentencing patterns
83.	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
84.	Tabalbag (31) [2016] NSWSC 1570 Mathews AJ	Provocation Stabbing – domestic	VG (murder trial - 25% for offer to plead) Sched: AOABH	6y NPP 4y 6m		Nil	Came home unexpectedly during day to find female partner have intercourse with male acquaintance – pursued male into bathroom and stabbed several times – spontaneous act – cut finger of female partner – slightly below mid-line Prior good character – good prospects of rehabilitation – remorse – out of character

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

