

## Murder: 2003

**Maximum Penalty: Life - s.19A (NSW) Crimes Act**

**Standard non-parole period**

**20 years:** all offences committed on or after 1.2.2003

**25 years:** offences committed on or after 1.2.2003 where victim was a police officer, emergency services worker, correctional officer, judicial officer, health worker, teacher, community worker, or other public official, exercising public or community functions and the offence arose because of the victim's occupation

	NAME (age if known)	PLEA	SENTENCE	APPEAL	SUMMARY OF RECORD	HOW KILLED	INVOLVEMENT & SUMMARY
1.	<b>ANDREWS</b> (47) <a href="#">[2003] NSWCCA 7</a>	VG	21y NPP 16y	AD	nil relevant	Shooting  Intent to kill	Shot wife after she ended relationship - multiple shots - depressed at time of offence - emotional situation - degree of planning Isolated aberration - unlikely to re-offend
2.	<b>KENNING</b> (40) <a href="#">[2003] NSWSC 84</a> Whealy J	PG (15%) Murder  AOABH	21y 3m NPP 16y  FT 6m (concurrent)		minor	Assault  Intent GBH	Assaulted de facto in savage beating - accused her of sexual infidelity - used blunt instrument - extreme sexual violence - also assaulted male with tree branch History of domestic violence - some remorse
3.	<b>ABOU-CHABAKE</b> (26) <a href="#">[2003] NSWSC 125</a> Howie J  (2004) 149 A Crim R 417 <a href="#">[2004] NSWCCA 356</a>	VG	20y NPP 15y	AD	nil relevant	Shooting  Intent to kill	Fired 7 shots at male acquaintance through window of car - unknown and unexplained motivation – aggravated by use of handgun in public street - element of pre-meditation - element of provocation Aberration - married

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4.	<b>GRANT</b> <a href="#">[2003] NSWSC 215</a> Dunford J	VG	18y NPP 13y  (partially cumulative to related sentence of att murder)  <u>Total:</u> 20y NPP 15y		Minor prior convictions	Shooting  Intent to kill	Shot male stranger in hotel car park – motive unclear – chased and shot at second male Serious alcohol problems – Retrial
5.	<b>LO</b> (22) <a href="#">[2003] NSWSC 582</a> Adams J  Co-accused: NG LEW	PG (combined 40%) Murder  Sched: Att AR	18y NPP 13y 6m		Breached bond for drug offences	Shooting  Accessory	During attempted robbery of tavern manager shot in head by co-offender to prevent identification – offender did not foresee or intend death but intentionally assisted Assistance given against co-offender
6.	<b>WALKINGTON</b> (37) <a href="#">[2003] NSWSC 517</a> Newman AJ  <a href="#">[2003] NSWCCA 285</a>	VG	18y NPP 12y	Crown AD	Assault on victim	Stabbing	Stabbed estranged de facto 23 times – subsequently kicked body – spontaneous – intoxicated – upper end of culpability Prior good character – good prospects of rehabilitation
7.	<b>Y</b> (32) <a href="#">[2003] NSWSC 468</a> Kirby J	PG (15%)	16y NPP 11y		Lengthy record	Assault	Brutal attack on acquaintance resulting in choking with belt – spontaneous response to insult – intoxicated and under extreme stress at time Real threats to life
8.	<b>MASKEY</b> (46) <a href="#">[2003] NSWSC 1029</a> Newman J	PG	20y NPP 14y		Nil relevant except breach of apprehended violence order	Stabbing  Intent to kill	Stabbed wife 27 times in chest with kitchen knife – no premeditation – deteriorating relationship with violence on both sides Received serious head injury from assault by wife on earlier occasion
9.	<b>FLANJAK</b> (53) <a href="#">[2003] NSWSC 779</a> Adams J	VG	20y NPP 15y		Nil	Shooting  Intent to kill	Emptied magazine of berretta automatic pistol into estranged lover, using final cartridge on self Anger and despair

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10.	<b>NG</b> (28) <a href="#">[2003] NSWSC 781</a> Adams J  <a href="#">[2011] NSWCCA 227</a>  Co-accused: LO LEW	VG Murder  s.97(2) Agg Rob	35y NPP 25y 9m  FT 7y  <u>Total:</u> 37y NPP 27y 9m	AA 30y NPP 22y 6m  FT 7y  <u>Total:</u> 31y NPP 23y 6m	Nil relevant	Shooting  Accessory	Involved in robbery of Tavern – manager deliberately shot in head to prevent identification – not satisfied who fired shot
11.	<b>RITCHIE</b> (55) <a href="#">[2003] NSWSC 864</a> Barr J	VG	15y NPP 11y 9m		Nil relevant	Suffocation  Intent to kill	Suffocated elderly mother – hid body in bush and claimed mother had wandered off – under stress of caring for dying mother – gross breach of trust – only issue at trial was mental health Good prospects of rehabilitation – ill health
12.	<b>PENISINI</b> (24) <a href="#">[2003] NSWSC 892</a> Wood CJ at CL  <a href="#">[2004] NSWCCA 339</a>	PG Murder  Unauth use of firearm  Car jacking	34y NPP 23y  FT 5y  FT 6y  <u>Total:</u> 36y NPP 25y	Crown AD	Serious violent offences – breached parole	Shooting  Intent to kill	Deliberate shooting of police officer during attempt to apprehend stolen car containing four offenders – fired five shots through driver window of police car – attempted to take second car at gunpoint to facilitate escape – no premeditation or planning Tongan – genuine remorse – element of dangerousness to community Co-offenders M and J Taufahema sentenced for manslaughter

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13.	<b>MEHAJER</b> (23)	VG Murder	18y NPP 13y 6m	AD	Nil prior – minor subsequent offence	Assault	Robbery of takeaway shop – one man threatened by M with knife and assaulted – owner kicked in head and subsequently died – unclear who caused death – M ringleader M – prior good character – good prospects of rehabilitation J – extremely harsh upbringing – favourable prospects of rehabilitation
		Rob in Co	FT 4y			Felony murder	
		Agg Rob in Co	FT 5y			Accessory	
			<u>Total:</u> 18y 6m NPP 14y				
	<b>JACOBS</b> (21)	VG Murder	16y 6m NPP 12y 6m		Minor prior offence		
	<a href="#">[2003] NSWSC 885</a> Studdert J	Rob in Co	FT 4y				
	(2004) 151 A Crim R 452	Agg Rob in Co	FT 5y				
	<a href="#">[2004] NSWCCA 462</a>		<u>Total:</u> 17y NPP 13y				
14.	<b>MARCHANT</b> (29)	PG (10%)	38y NPP 32y	AD	Lengthy record for violence – breached parole	Shooting	Male shot twice in head during night time meeting in park to discuss stolen jewellery – purpose of shooting not clear – vicious and callous execution M – Primary offender – continuing danger – little hope of rehabilitation C – Present and reckless as to killing – deprived background – some hope of rehabilitation
						Intent to kill	
	<b>CRAWT</b> (24)	PG (10%)	35y NPP 28y	AA 30y NPP 24y	Lengthy record – breached parole and bail	Accessory	
	<a href="#">[2003] NSWSC 958</a> Greg James J	Sched: Drive convey					
	<a href="#">[2006] NSWCCA 120</a>	Agg AR Att AR					

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15.	<b>FOLBIGG</b> (36) <a href="#">[2003] NSWSC 895</a> Barr J  (2005) 152 A Crim R 35 <a href="#">[2005] NSWCCA 23</a>  <a href="#">[2007] NSWCCA 371</a>  <a href="#">[2023] NSWCCA 325</a>	VG Murder  Murder  Murder  Manslaughter  Intentionally inflict GBH	18y  20y  22y NPP 12y  FT 10y  FT 14y  <u>Total:</u> 40y NPP 30y	Sentence AA 18y  20y  22y NPP 17y  FT 10y  FT 14y  <u>Total:</u> 30y NPP 25y	Nil         Conviction AD  Conviction AA Convictions quashed – acquittals entered	Suffocation  Intent to kill	Mother killed four babies over ten years – suffocated each child in spontaneous burst of anger – earlier attack on second child caused blindness Seriously psychologically damaged by early neglect and physical and sexual abuse – protective custody On sentence appeal: error in accumulation and overall sentence crushing – comments on public opinion  <b>NOTE:</b> Ms Folbigg received a pardon for all offences in 2023 after a Part 7 <i>Crimes (Appeal and Review) Act</i> inquiry found a reasonable doubt as to her guilt.  Following this inquiry the CCA found reasonable doubt as to guilt in light of scientific evidence not available at the time of the trial - convictions were quashed and verdicts of acquittal entered on all counts
16.	<b>M.A.</b> (17) <a href="#">[2003] NSWSC 978</a> Shaw J  (2004) 145 A Crim R 434 <a href="#">[2004] NSWCCA 92</a>	PG (15% on appeal)	13y 6m NPP 8y 6m	Crown AA 16y NPP 11y	Nil	Shooting  Reckless indifference	During altercation with 18y male on street shot victim in chest at close range – unplanned and unpremeditated
17.	<b>JOSEPH</b> (46) <a href="#">[2003] NSWSC 1080</a> Greg James J	PG (25%)	15y NPP 11y		Nil	Assault  Intent GBH	Assaulted wife asleep in bed with club lock – sustained and frenzied attack – relationship broken down – child sleeping in bedroom with wife Sri Lankan
18.	<b>IDE</b> (31) <a href="#">[2003] NSWSC 1110</a> Whealy J	VG Murder  2 x Assault	15y NPP 11y 3m  FT 6m (concurrent)		Nil	Shooting  Intent to kill	Long running dispute with sister over father's property – on day of shooting angered by removal of cattle from property – deliberately shot sister at close range Prior good character – remorse – de facto and two children

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19.	<b>WIGNEY</b> (36) <a href="#">[2003] NSWSC 1136</a> Adams J  <a href="#">[2004] NSWCCA 171</a>  Co-offender: SMALE [2005]	PG (combined 35%) Murder  AR  Sched: 5 serious and unrelated off	13y 8m NPP 8y 6m  6y NPP 4y 6m  <u>Total:</u> 16y 8m NPP 11y 6m	Crown AA 16y 3m NPP 12y 2m  6y NPP 4y 6m  <u>Total:</u> 20y 9m NPP 16y 8m	Lengthy although less serious – breached parole	Shooting  Felony murder	Robbed club using firearms – struggled with pursuing manager and shot him in chest Assistance against co-offender – genuine remorse – long history of drug abuse On appeal found error in finding reflexive discharge of weapon
20.	<b>GEORGIU</b> (33)  <b>HARRISON</b> (39) <a href="#">[2003] NSWSC 1240</a> Greg James J  (2005) 153 A Crim R 288 <a href="#">[2005] NSWCCA 189</a>	VG 3 x murder  VG 3 x Murder	33y NPP 28y (each – concurrent)  33y NPP 28y (each – concurrent)	Conviction AD	traffic matters  nil	Shooting  Intent kill	Shooting of four members of Biekie Club by member and ex-member of rival Club in basement of café - close range - deliberate executions but unable to determine if pre-planned. G: father to young child - good character evidence - concurrent sentence for contempt for refusal to answer question in cross-examination. H: father to young daughter - positions of responsibility in gaol Earlier conviction at trial quashed on appeal: <a href="#">[2000] NSWSC 287</a> Dowd J <a href="#">[2001] NSWCCA 464</a>

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