

Murder: 2004

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

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| 1. | BROWN (42) [2004] NSWSC 194 Hulme J | VG | 18y NPP 13y 6m | | Minor and irrelevant | Assault Intent GBH | Unpremeditated assault on wife with heavy doorstop – probable outburst of violence or anger during argument Out of character – father to 3 children |
| 2. | FRASER (36) [2004] NSWSC 53 Howie J [2005] NSWCCA 77 | VG 3 x Murder | 32y NPP 27y | AD | Nil | Drowning Intent to kill | Drugged daughter and 2 sons with sleeping tablets then drowned them in bath – daughter violently struggled – revenge against estranged wife – genuine attempt at suicide – premeditated and planned offences Severely mentally disturbed at time – history of mental illness – protective custody |
| 3. | STONE (31 at offence / 44 at sentence) (2004) 144 A Crim R 568 [2004] NSWSC 224 Grove J | PG | 21y NPP 15y 9m | | Lengthy – breached parole – dealt with for attempt to commit similar offence 5 years later | Strangulation | (1990) Broke into home during day attempting to escape pursuit – intoxicated and drug affected – formed intent to commit sexual assault – stripped female occupant and tied her to bed – strangled with football sock – gratuitous violence - 5 years later threatened 26y daughter of de facto with similar violence – subsequent DNA match to murder Deprived childhood as ward of state – serious health problems – future dangerousness – more lenient sentence pattern for murder at time of offence |
| 4. | LOEBER (33) [2004] NSWSC 293 Wood CJ at CL | PG (combined 25%) | 18y NPP 13y | | No relevant priors | Stabbing | Broke into home of female friend and stabbed her over 40 times – disguised with pillowcase upon entering house – no memory of offence - use of knife and attack in complainant's home aggravating features Prior good character |

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| 5. | LEW [2004] NSWCCA 320 Co-offenders: NG LO | VG Murder PG Acc before fact attempt armed robbery | 14y NPP 11y FT 5y | AA 14y NPP 10y FT 5y <u>Total:</u> 14y NPP 11y | AOABH. | Shooting Accessory before fact | Planned with co-offenders to rob tavern where offender worked - co-offenders armed with metal pole, knife and gun, entered tavern, struck victim on back of head with metal pole - victim struggled and killed by knife wound to throat and bullet wound to head - co-offenders stole \$50K – offender aware of metal pole only - tried to convince co-offender not to proceed - attempted to withdraw from involvement but did nothing of significance to prevent robbery – did not notify victim of what was to occur. Abuse of position of trust – motivated by financial pressures – gambling debt On appeal related conviction for accessory before the fact to armed robbery quashed |
| 6. | JSK (16y) [2004] NSWSC 470 Buddin J Co-offender: MAH [2005] | PG | 11y NPP 7y | | Nil | Assault Intent to kill | Fatal assault on 17y friend at instigation of co-offender – friend taken to remote area and body buried – pre-meditation – element of duress. Voluntary admission of guilt three years later - significant discount for assistance – extreme remorse – emotionally immature – excellent prospects of rehabilitation |
| 7. | WILKINSON (26) [2004] NSWSC 1307 Howie J Co-offender: WILLARD [2005] TJA [2004] | PG (25%) | 22y 6m NPP 16y 6m | | Drug offences – breached bond | Shooting Accessory Intent to kill | SNPP 20 years Female - assisted in killing of friend's husband – arranged shooter – drove shooter to house – victim shot in back of head while asleep on lounge – premeditated offence for financial reward – substantial role Judgement impaired by mental state |
| 8. | MOLONEY (39) [2004] NSWSC 477 Grove J | VG Murder 2 x Att inflict GBH with intent | 20y NPP 15y 6y NPP 4y 6m (concurrent) | | Prior convictions for violence – breached bail | Car Intent GBH | Removed from hotel by licensee and two employees after fight – deliberately drove car at three men in car park – licensee killed |
| 9. | KNIGHT (35) [2004] NSWSC 498 Barr J [2005] NSWCCA 241 | VG | 22y NPP 16y 6m | AD | Lengthy record for drug, property and violence offences | Stabbing Intent to kill | Savage attack on prison inmate by at least two offenders in cell – multiple stab wounds – no explanation for killing Some prospects of rehabilitation |

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| 10. | WILSON (18) [2004] NSWSC 597 Simpson J (2005) 152 A Crim R 257 [2005] NSWCCA 112 | PG (25%) | 12y NPP 8y | Crown AA 15y NPP 11y | Nil | Stabbing Intent GBH | Stabbed taxi driver in remote area during argument over fare – no premeditated intent to rob – burned taxi and stole money Originally found unfit to plead and sentenced after special hearing – dysfunctional childhood – low intelligence and depression – successful efforts at rehabilitation |
| 11. | HOLLAND [2004] NSWSC 653 Dowd J | VG | 30y NPP 23y | | Not serious – escapee at time of killing | Stabbing Intent to kill | Stabbed fellow male escapee in frenzied and sustained attack – reacted to insults to girlfriend – slow and painful death – gratuitous cruelty – spontaneous offence Young, immature and socially dysfunctional – dislocated and abusive childhood - isolated |
| 12. | CROWTHER- WILKINSON [2004] NSWCCA 249 | VG | 20y NPP 15y | Conviction AD | Not stated | Shooting | Shot male partner in security business – body wrapped and dumped in river – care taken to conceal offence |
| 13. | TA'ALA NSWSC Davidson AJ 30.7.2004 [2008] NSWCCA 132 | PG (just over 13%) Murder Murder | 26y NPP 19y 6m 35y NPP 26y 6m <u>Total:</u> 47y NPP 38y 6m | AA 26y NPP 19y 6m 35y NPP 23y 3m <u>Total:</u> 47y NPP 35y 3m | | Bashing and stabbing Intent to kill | Beat first victim with cricket bat over head – argument as to drug dealing – bashed and stabbed second female victim who had witnessed the attack. On appeal corrected SJ's intention to set NPP at 75% of total sentence |
| 14. | TJA (17) [2004] NSWSC 1308 Howie J Co-offender WILLARD [2005] WILKINSON [2004] | PG | 22y 6m NPP 16y 6m | | Nil for violence – breached bail and bond | Shooting Intent to kill | SNPP 20 years Involved in killing of male on behalf of wife - shooter – victim shot in back of head while asleep on lounge – premeditated offence for financial reward – seeking to impress older girlfriend Remorse – severely deprived childhood resulting in early drug abuse |

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| 15. | GOODWIN (57) [2004] NSWSC 757 Howie J | PG (17.5%) 2 x Murder | 22y NPP 16y 6m Total: 27y NPP 21y 6m | | Insignificant record | Shooting Intent to kill | SNPP 20 years Shot estranged wife and new partner – element of planning Highly disturbed state resulting from separation – attempted suicide |
| 16. | MS (17) [2004] NSWSC 730 Dunford J | VG | 17y NPP 11y | | Lengthy record including common assault and mal wounding | Strangulation Intent to kill | Killed 15y girlfriend by strangling her with shoelaces – relationship marked by violence towards victim Aboriginal youth – physically abused and dislocated throughout childhood – alcohol and drug addiction – good prospects of rehabilitation |
| 17. | EAGLESHAM (30) [2004] NSWSC 747 Barr J | VG | 20y NPP 15y | | Not stated | Knife across throat Intent to kill | Carefully planned murder of recently estranged wife Depressed – may have been sexually assaulted as child – precluded from contact with son – subsequent assaults on family members |
| 18. | O'LEARY (22) [2004] NSWSC 821 Buddin J | PG | 16y NPP 11y | | Nil | Assault Intent GBH | Assaulted 60y male acquaintance and left in wardrobe of caravan – no premeditation – argument over living arrangements – some possible provocation and self- defence – element of substantial impairment PTSD and depression after witnessing car accident – contrition – prior good character |
| 19. | AZAR (41) [2004] NSWSC 797 Kirby J | VG | 17y NPP 12y | | Criminal record for dishonesty and drugs offences | Shooting Intent to kill | Shot male acquaintance at home 7 times – sexually abused by victim when very young in Lebanon Depressive illness – reasonable prospects of rehabilitation |
| 20. | GONZALES (20) [2004] NSWSC 822 James J (2007) 178 A Crim R 232 [2007] NSWCCA 321 | VG 3 x Murder | Life | AD | Nil | Stabbing - striking and strangling Intent to kill | Stabbed father, mother and 18y sister in their home - made it look like racially motivated attack – premeditated – tried to poison mother 10 days before murder False alibi – no mitigation of objective seriousness of offence – no contrition – risk of dangerousness |

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| 21. | IGLESIAS (53) [2004] NSWSC 944 Hidden J [2006] NSWCCA 261 | PG (see facts) | 15y NPP 11y | AD | Sporadic – not significant | Stabbing Intent GBH | Attacked victim in home, stabbing him in neck and side – earlier in day punched by victim in face Disturbed childhood in Cuba – limited intellectual ability – good prospects of rehabilitation – isolated in custody – protective custody Without discount for plea and co-operation head sentence would have approached 20 years |
| 22. | TAOUK (55) [2004] NSWSC 981 Barr J (2005) 154 A Crim R 69 [2005] NSWCCA 155 | VG Murder Murder | 16y NPP 15y 18y NPP 11y <u>Total:</u> 22y NPP 15y | Conviction AD | Old firearm offence – drug offence | Shooting Intent to kill | Shot wife and brother in law in house while preparing for bed – no premeditation – no real explanation for shooting – good relationship with both victims Poor health |
| 23. | VANN (20) [2004] NSWSC 988 Dunford J | PG (13%) Murder Assault | 19y NPP 14y 3m FT 18m (concurrent) | | Possess knife in public place | Shooting Intent to kill | Shot 16y male stranger with SKS rifle during fight outside cinema – called to cinema to assist |
| 24. | KISELJEV (66) [2004] NSWSC 1030 Dunford J | PG 20% | 16y NPP 11y | | Nil | Asphyxiation | Killed young wife during argument by assaulting her with shoe and asphyxiating with cloth over mouth – unhappy and dysfunctional marriage – element of provocation – spontaneous Croatian – remorse – prior good conduct |
| 25. | NGUYEN (24) [2004] NSWSC 1067 Hidden J | VG Murder Shoot w/i to murder | Murder 20y NPP 14y 6m FT 12y <u>Total:</u> 22y NPP 16y 6m | | Disturbing – breached parole for serious armed robbery | Shooting Intent to kill | Shot male acquaintance and friend in gaming room of hotel – spontaneous offence Vietnamese – reasonable prospects of rehabilitation |

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| 26. | O'CONNELL (18) [2004] NSWSC 1120 Davidson AJ [2006] NSWCCA 82 | PG (20%) | 35y NPP 25y | AD | Juvenile record for serious crimes of violence | Assault and stabbing Intent to kill | SNPP 20 years Killed 15y girl with whom he was having casual relationship – horrific wounds – 49 injuries, including 10 stab wounds - violent sexual proclivities – disposed of body in nearby garbage bin – deliberately attempted to divert suspicion Victim of abuse by stepfathers – drug and alcohol problems – dyslexia/ADHD – remorse – youth – but for youth and plea, life sentence would have been imposed – limited protective custody |
| 27. | KEIR (30) / (45) [2004] NSWSC 1194 Campbell AJ [2007] NSWCCA 149 | VG | 22y NPP 16y | Conviction AD | Nil relevant (NB acquitted of murdering second wife) | Strangulation Intent GBH | Probably strangled wife - body found in backyard - obsessed and jealous towards wife - made threats and violent - angered by wife's attempt to leave – lied about wife leaving him Third trial – application of <i>Gilmore</i> principle <i>Earlier trials:</i> [2000] NSWSC 111 (2002) 127 A Crim R 198 (NSWCCA) [2003] NSWSC 140 (2003) 144 A Crim R 468 (NSWCCA) |

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| 28. | ASLETT (33) [2004] NSWSC 1228 Wood CJ at CL [2006] NSWCCA 360 | PG Murder 2 x s.61JA 8 x s.97(2) 2 x s.97(1) Sp agg kidnap Agg car jacking Att obtain \$ by deception 3 x LMV Sched: 9 similar offences | Life <u>Total other offences:</u> 36y NPP 28y | AA 28y NPP 22y <u>Total other offences:</u> 36y NPP 28y <u>Total:</u> 42y NPP 36y | Lengthy and disturbing – almost continuous custody since 11 years old – recently sentenced for brutal home invasion and sexual assault on 16y female occupant | Gunshot Felony murder | SNPP 20 years Murder involved attempt robbery of male proprietor of pharmacy – struggled with victim in car, took out loaded gun to threaten and gun discharged - other offences committed over 3 months – stole car with female occupant using knife and gun – sexually assaulted complainant twice – robberies of various retail premises using guns and knives Drug abuse – some remorse - finding of dangerousness – psychological profile suggests no hope of rehabilitation On appeal: erred in using other offences to impose life sentence on murder that did not warrant life sentence alone |
| 29. | CLEVERLY (18) [2004] NSWSC 1279 Mathews AJ [2007] NSWCCA 169 | VG Sched: Agg kidnap Att pervert course of justice | 24y NPP 18y | Conviction AD | Nil | Strangulation Intent to kill | Strangled aunt in her home – possibly motivated by financial gain – premeditated – higher end of range Brain injury at least affected judgment. |

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