Murder: 2014

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

offences where plea or conviction on or after 25.6.2006 and offence arose because of the victim's 'voluntary work'

offences where plea or conviction on or after 1.1.2008 and where victim was a child under 18 years of age

offences where the offence arose because of the victim's occupation as a council law enforcement officer (added 9.6.2009)

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1.	**GITTANY (No.5)** (40) [2014] NSWSC 49 McCallum J [2016] NSWCCA 182	VG	26y NPP 18y	Conviction AD	Drug and assault offences	Assault Intent to kill	**SNPP 20 years** Killed de facto partner in act of rage by throwing her unconscious over balcony of high rise unit – during argument dragged victim back into unit after attempt to leave - intent to kill formed spontaneously but with background of controlling, volatile and abusive relationship – not above mid-range
2.	**PATON** (28) [2014] NSWSC 71 Button J Co-offender: KEARNES [2013]	VG	19y NPP 14y 3m		Record – breached parole	Shooting Accessory	**SNPP 20 years** Male victim shot by co-offender in victim's home – drove with co-offender from nearby town aware of his intention to kill for several hours – present in general vicinity of units when shooting occurred Background of deprivation and violence leading to early alcohol and drug addiction

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3.	**PANETTA** (29) [2014] NSWSC 27 Davies J [2016] NSWCCA 85	PG (on appeal – combined 50%)	17y NPP 12y 9m	AA 12y NPP 9y	minor	Assault Intent GBH	**SNPP 20 years** Told by girlfriend that victim was a 'bad man' but police unable to obtain evidence against him – killed victim with a hammer during attempted kidnapping and robbery – disposed of body – spontaneous killing – a little below mid-range Voluntary confession to murder due to stress – no prospect that murder or body would have been detected – unaware victim was ex-husband of girlfriend - low intelligence and serious personality disorders – vulnerable and gullible
4.	**FAZAH** (32) [2014] NSWSC 231 Hidden J	PG (25%) Murder s.33	24y NPP 18y 7y NPP 5y Total: 26y NPP 20y		nil	Stabbing Intent to kill	**SNPP 25 years** After assaulting wife in unit chased her downstairs and stabbed her multiple times – returned to unit and fatally stabbed 2y daughter – offender stabbed himself – spontaneous offence Troubled relationship – history of violence towards wife – suffered wartime conditions, capture and torture in Afghanistan – PTSD – custodial conditions more onerous because of personal history
5.	**LUTU** (48) [2014] NSWSC 413 Campbell J	PG (25%)	18y 9m NPP 14y		assault (on partner)	Stabbing Intent to kill	**SNPP 20 years** Stabbed female partner repeatedly in presence of their three young children – history of domestic violence Made redundant and not able to cope with being financially dependent on partner – immediate cooperation with police
6.	**MULVIHILL** (45) [2014] NSWSC 443 Fullerton J [2016] NSWCCA 259	VG	29y NPP 22y	AD	Nil relevant	Stabbing Intent to kill	**SNPP 20 years** Stabbed estranged girlfriend in her home unit during sustained and violent struggle – careful planning – entered unit with intent to cause harm – history of obsessive behaviour and violence towards female partners
7.	**MATTHEWS** (43 at sentence) [2014] NSWSC 608 Bellew J	PG (10%) Sched: Sex offence	21y 6m NPP 16y 3m		Mostly dishonesty – some minor violence	Assault Intent to kill	(1992) Involved in taking female prostitute to bush area - victim sexually assaulted – offender struck victim to head with large rock – killing not planned Subsequently suffered traumatic brain injury from an assault – genuine remorse

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8.	**ROSS** (29) [2014] NSWSC 707 Rothman J [2016] NSWCCA 176	VG	40y NPP 30y	AD	BES - assault	Assault Intent GBH	**SNPP 25 years** Killed 2y daughter of de facto - mistreated child during two months prior to death – forced her into cold shower and hit her head against shower screen – kicked collapsed child forcing her head to hit linen cupboard – injured child left in pram unattended for night and day – unplanned and unpremeditated Bipolar disorder and high-level personality disorder – heavy smoker of cannabis – difficult childhood – Aboriginal male - no relevant Fernando considerations – no remorse
9.	**ABDALLAH (No.7)** (25) [2014] NSWSC 829 Campbell J [2016] NSWCCA 34	VG	26y 8m NPP 20y	AD	Minor in NSW – kidnapping in NZ	Shooting Intent to kill	**SNPP 20 years** Shot male victim in residential street in broad daylight – approached victim in street with intent to confront - offender assaulted by male victim and two associates – acted in retaliation and element of provocation – six shots fired in rapid succession - history of animosity and violence between offender and victim – aware victim leader in bikies group and propensity to violence Element of facilitating administration of justice in narrowing issues at trial
10.	**JUBRAEEL** [2014] NSWSC 838 Rothman J [2015] NSWCCA 131 Co-offender: SAFAR [2014]	VG	17y NPP 12y	Conviction AD	AR	Shooting Joint criminal enterprise Reckless indifference	**SNPP 20 years** Approached home of victim at night with two co-offenders – victim pulled back curtain to investigate and shot dead by co-offender –intended BES with no violence - first aware of gun when gun drawn by shooter shortly before shooting - lowest end of range of seriousness – shooting based on reckless indifference to life Traumatic childhood upbringing in Iraq – personal drug use – testing revealed to be in 'intellectual disabled' range
11.	**SAFAR** [2014] NSWSC 376 Rothman J Co-offender: JUBRAEEL [2014]	PG (12.5%)	15y 9m NPP 11y		No history of violence of dishonesty	Shooting Joint criminal enterprise	**SNPP 20 years** Approached home of victim at night with two co-offenders – victim pulled back curtain to investigate and shot dead by co-offender –intended BES with no violence - first aware of gun when alighted car – lowest end of range of seriousness – affected by drugs and fear of co-offender prevented withdrawal Drug addiction motive for robbery – genuine remorse – good prospects of rehabilitation

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12.	**EVANS** (41) **RAWLINSON** (42) [2014] NSWSC 979 Harrison J Co-offender: PROUD [2017] SPICER [2015]	PG (25%) VG	24y NPP 18y 36y NPP 27y		Nil Nil	Arson Joint criminal enterprise Intent to kill	**SNPP 20 years** R was principal and driving force behind plot to kill victim – R in relationship with victim – R also in secret relationship with E and manipulated E to believe they could not be together unless victim was killed – E and co-offender S set victim's home alight causing death R: above mid-range objective seriousness – calculated planned offence – not present at fire E: Aboriginal female – depression – purchase of items to start fire – planned
13.	**HILL** (33) [2014] NSWSC 1010 Bellew J	PG (10%)	27y 6m NPP 20y 6m		nil	Assault Intent GBH	**SNPP 25 years** Killed 2y son of de facto – physically abused victim over many months – fractured skull and gastric tear caused by two separate blows – significant force used – would have been aware of pain caused by first blow to stomach – second blow inflicted several hours later – spontaneous and unplanned – slightly above mid-range Back injuries causing persistent pain - depression
14.	**LEWIS** [2014] NSWSC 1127 Rothman J	PG (15%)	18y NPP 13y		Record but no violence offence for 13 years	Assault Not stated	**SNPP 20 years** Killed male by punching and stomping on head – victim died a few weeks later in hospital from cerebral hemorrhage – offender had intervened in quarrel between victim and offender's friend – severely affected by drugs and alcohol – no recollection of offence. Aboriginal male – adopted – good upbringing – suffered bullying and social exclusion during school – began abusing drugs and taking part in criminal activity
15.	**SAFI** (37) [2014] NSWSC 1208 Bellew J	VG	22y 8m NPP 17y		Driving and dishonesty offences	Assault Joint criminal enterprise Intent GBH	**SNPP 20 years** Fatal assault on male acquaintance with brother – victim had made threats, stolen from offender and attempted to break onto offender's house – baseball bat used – victim a stand over man

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16.	**E McKELLAR** (18) **B McKELLAR** (28) [2014] NSWSC 1243 RA Hulme J	VG Murder Wound with intent Att AR VG Murder Wound with intent Att AR	20y NPP 14y 8y NPP 6y 5y NPP 3y 9m <u>Total</u>: 24y NPP 18y 20y NPP 14y 8y NPP 6y 5y NPP 3y 9m <u>Total</u>: 24y NPP 18y		Lengthy – breached parole Lengthy – breached bail for assault offence	Stabbing Intent GBH Extended joint criminal enterprise	**SNPP 20 years** Four males attended home of victim with intent to rob – victim sold small amounts of cannabis on regular occasions – group brought machete and knife to scene - victim assaulted by BMc at door to house – BMc pursued by victim and 17y son – son stabbed by EMc twice at request of BMc to 'kill the cunt' – victim surrounded and assaulted by four offenders – stabbed four times by EMc – spontaneous assault Aboriginal brothers with difficult background including domestic violence E McKellar very low intellectual functioning B McKellar suffering brain damage from accident
17.	**HINES (No 3)** [2014] NSWSC 1273 Hamill J	VG Sched: 2 x AOABH	24y NPP 16y 6m		Murder, agg sexual assault, assault	Stabbing Intent GBH	**SNPP 20 years** Single stab wound to chest – argument with male – substantial degree of provocation by victim – abuse and threats – no premeditation. Deprived background – early exposure to alcohol - previous murder of partner committed in 1994 - significant risk of committing further offences if return to similar patterns of drinking - some prospects of rehabilitation.
18.	**BALLANTYNE** (30) [2014] NSWSC 1381 RA Hulme J	PG (25%)	19y NPP 14y 3m		AOABH	Strangulation / choking Intent to kill	**SNPP 20 years** Choked and assaulted female partner – difficulties with relationship – argument – took victim to nearby river where killing took place – skull fracture and choking injuries - mid-range objective seriousness Immaturity – anger management issues – supportive family – reasonable rehabilitation prospects

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19.	**McARTHUR** (39) [2014] NSWSC 1401 Harrison J	PG (10%)	25y 2m NPP 18y 10m			Stabbing Intent GBH	**SNPP 25 years** Stabbed 15y male outside industrial premises – mistook victim for his father – offender made an offer by a 'mate' to 'rough up' and assault person who owed money – would be paid in drugs – had never seen victim or his father before – stabbed victim to chest – planned offence – armed with weapon - above mid-range. Drug user Co-Accused Robertson sentenced for manslaughter
20.	**TNV** (17) [2014] NSWSC 1510 Fullerton J Co-offenders: NGUYEN [2011] LUONG [2011]	PG (15%) Murder Murder	13y 7m NPP 8y 10m 15y 3m NPP 9y 11m <u>Total</u> 19y 3m NPP 13y 11m			Stabbing Joint enterprise	Victims stabbed during attack by four males outside bar during argument – TVN inflicted non-fatal stab wound on one victim during fight - attack response to earlier attack on co-offender by one victim and friends – delay between incidents and degree of planning – disregard for public safety – under influence of 26y co-offender – above mid-range Spent three years in Vietnam with father after murder – voluntarily returned – difficult childhood – evidence of rehabilitation
21.	**JONES (No.3)** (41) [2014] NSWSC 1511 Button J	VG Murder PG Drug supply	27y NPP 20y FT 18m <u>Total</u>: 27y 9m NPP 20y 9m		Lengthy record including violence – breached bonds	Asphyxiation Intent to kill	**SNPP 20 years** Fatal assault on female acquaintance in motel room - asphyxiated victim using cloth tied around neck – also brutally assaulted victim to face – spontaneous murder – attempted to dispose of body in bush land – motive for murder unknown - supplied and used methylamphetamines with victim – found in possession of 81.9g Long term drug user
22.	**FORREST** (50) [2014] NSWSC 1680 Hidden J	VG	25y NPP 19y		Old dishonesty offences	Poison Intent to kill	**SNPP 20 years** Female – carer for 84y male victim – misappropriated funds from sale of victim's house – poisoned victim with morphine tablets and killed him to hide misappropriation – attempted to cover tracks – pre-meditated Unhappy childhood – gambling problem – very poor health – possible terminal illness – difficult custodial conditions

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23.	**HALLOUN** (35) [2014] NSWSC 1705 McCallum J	VG	24y NPP 17y		Nil	Assault	**SNPP 20 years** Attack on vulnerable woman in her own home – trying to steal money – working as a concreter for victim and family at her home - no intent to kill Extra-curial punishment from assault in prison – supportive family – special circumstances
24.	**CLARKE** (44) [2014] NSWSC 1746 RA Hulme J [2016] NSWCCA 88	VG	22y NPP 16y 6m	AD	Record related to alcohol and cannabis abuse	Assault Intent GBH	**SNPP 20 years** Bashed to death 55y female acquaintance staying in flat overnight after social gathering – circumstances of assault unclear – intoxication – spontaneous offence – no weapon – not sustained attack – below mid-range Long term alcohol and cannabis abuse
25.	**KUMAR** (54) [2014] NSWSC 1747 Mathews AJ	VG	23y NPP 17y		Nil record – breached bail for sexual offences against victim – history of domestic violence	Suffocation Intent to kill	**SNPP 20 years** Broke into home of estranged wife and suffocated her – limited planning – unprovoked killing – motive almost certainly to prevent victim giving evidence in sexual assault charges – mid-range Fijian Indian – good prospects of rehabilitation
26.	**BRIGGS** (41) [2014] NSWSC 1805 Button J	PG (5%)	18y NPP 13y		Breached bond and suspended sentence – extensive record for violence	Assault Intent GBH	**SNPP 20 years** Fatal assault on male acquaintance in home of victim – sustained assault – used chair leg and small baseball bat – intoxicated – assault aggravated by prior ill health resulting in death – reason for assault unclear Low intelligence
27.	**M BARBIERI** (19) [2014] NSWSC 1808 Hulme J [2016] NSWCCA 295	PG (15% on appeal) Sched: 4 offences	35y NPP 26y	AA 21y 3m NPP 15y	nil	Stabbing Intent to Kill	**SNPP 25 years** Male lived with mother on rural property - relationship with neighbour became antagonistic – fired crossbow at workers on neighbour's property – siege developed between police and offender and mother – attacked police with knife and sledgehammer – police officer fatally stabbed - mother was dominant offender Mother pleaded guilty to manslaughter Mother suffered serious mental illness causing paranoia and social isolation for both offenders – offender also developed serious mental illness - mandatory life sentence does not apply because of serious cognitive impairment

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28.	**SERUTAWAKE** (31) [2014] NSWSC 1762 Mathews AJ	VG	21y NPP 16y		nil	Stabbing Intent to kill	**SNPP 20 years** Fatal stabbing of wife – 22 stab wounds – snapped after fight with wife and she prepared to leave with baby – below mid-range Intoxicated - Fijian