Murder: 2016

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.	**TOWNEY** (20) [2016] NSWSC 97 Fagan J [2018] NSWCCA 65	VG	24y NPP 18y	Conviction AD	Violence offences – breached bond and bail – gaol misconduct charges	Stabbing Intent to kill	**SNPP 20 years** Engaged in fist fight with male acquaintance outside party at offender's house – retrieved knife from house and pursued victim who had left area on foot, stabbing him in neck several times – violent and spontaneous impulse Aboriginal male – childhood of violence and deprivation – early drug abuse – some degree of remorse

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

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2.	**MAYBIR (No.8)** (29) [2016] NSWSC 166 RA Hulme J	VG Murder s.61O(2A) 3 x s.61 s.91H(2) 2 x s.61 s.35(3) s.91H(2) s.59(1)	Indicative 38y NPP 28y 6m 1y 2y 2y 1y / 1y 3m 4y NPP 3y 1y 3y Aggregate: 42y NPP 31y 6m		Breached bond imposed for breaching AVO	Assault Intent GBH	**SNPP 25 years** Lived with partner and her young children in small music studio – enforced physical discipline over many months particularly on 7y male victim suffering intellectual disability – cruel, degrading and inhumane treatment – victim died as result of blunt force trauma to head although exact manner of death unclear – failed to obtain medical treatment
3.	**AC (No.7)** (34) [2016] NSWSC 404 Hamill J [2017] NSWCCA 20	PG (50% plea and assist) Murder Acc before s.33A(1)(a) Sched: Participation criminal gp: s.93T	8y NPP 5y 4y 6m NPP 3y Total: 9y 6m NPP 6y 6m	AD Crown AD	Nil	Accessory before the fact Shooting	Female – acting under duress - associated with Brothers for Life gang members involved in gangland violence / turf war - worked for solicitor representing various gang members – told FQ she heard LC planned to kill him – drove 3 gang members who intended to kill LC to home where LC was – HM shot dead by mistake - attended cafe location of another intended shooting with gang members - identified proposed target and his car – target later shot - mid-range objective seriousness - carefully planned execution of rival gang member Fearful of FQ who threatened her and family but remained involved with gang knowing they were involved in serious gangland activity - good prospects rehabilitation – assistance - onerous custodial conditions

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4.	**DENT** (53) [2016] NSWSC 444 RA Hulme J [2017] NSWCCA 166	VG Murder Agg rob in comp 2 x contempt Contempt	40y NPP 30y No penalty FT 1y FT 6m Total: 42y NPP 32y	Conviction AD	Extensive record including murder as a 17y old – breached bail for drug offences	Assault Constructive murder	**SNPP 20 years** Joint plan between four offenders - victim lured by offender and co-offender to park for robbery – assaulted, clothing removed, hogtied and gaged with underpants by offender – dominant offender – intended GBH and did not care if died Contempt offences – assaulted co-offenders in dock – threatened judge – sacked counsel and refused to proceed with trial Institutionalised
5.	**PHAN** (30) [2016] NSWSC 483 Mathews AJ	VG Murder PG (20%) 4 x s.97(2)	Indicative: 14y NPP 10y 6y / 7y Aggregate: 20y NPP 14y		Lengthy record for minor offences	Shooting Accessory to constructive murder	**SNPP 20 years** Armed robbery of fruit shop – armed with hammer – co-offender armed with pistol – employee shot twice by co-offender while detaining offender – liable on basis foresaw gun being discharged but not being used to cause GBH or death – lower range - other armed robbery offences committed week before in company with co-offender Difficult childhood
6.	**BIRCH** [2016] NSWSC 816 Rothman J	PG (25%)	20y NPP 13y		Violence – no domestic violence charges	Assault Intent GBH	**SNPP 20 years** Killed female partner – domestic violence situation – both intoxicated – during argument offender became enraged and punched victim – sustained assault – victim found dead in hallway by offender's brother next day – mid-range Aboriginal male - deprived and dysfunctional childhood – full remorse – good prospects of rehabilitation
7.	**FULLER** (18) [2016] NSWSC 815 Rothman J [2017] NSWSC 1351 Rothman J [2021] NSWCCA 194	PG (not full 25%) Sched Add offences	24y 6m NPP 18y 4m	Conviction AD	Long record	Assault Intent GBH	**SNPP 20 years** Believed victim owed offender money for stolen goods sold on behalf of offender – lured victim to meeting – punched victim twice then frenzied attack with blunt end of tomahawk – feared victim would report stolen goods to police Aboriginal male - violent and abusive childhood - aggressive and psychopathic personality disorder

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8.	**TURNBULL (No.26)** (79 at offence, 81 at sentence) [2016] NSWSC 847 Johnson J	VG Murder PG (10%) s.86(1)	Indicative 32y NPP 22y 9y Aggregate 35y NPP 24y		Unlawfully clear native vegetation	Shooting Intent to kill	**SNPP 20 years** Shooting of environmental officer – multiple shots and wounds – detained an environmental officer for purpose of killing another environmental officer - offences committed whilst criminal proceedings against offender before Land and Environment Court – intent to kill – substantial objective gravity Suffering from adjustment disorder but not serious mental disorder – strong family support.
9.	**MAY (No.2)** (38) [2016] NSWSC 1070 Wilson J	VG (10%)	19y 10m NPP 14y 10m		Extensive record for drug offences – breached bond	Assault Intent to kill	**SNPP 20 years** Under influence of drugs and alcohol assaulted aunt in street with half brick – no motive – sustained and brutal assault – offender himself assaulted earlier in evening Aboriginal male - background of deprivation – early drug abuse – panic and anxiety issues making custody more onerous
10.	**PERKINS** (18) [2016] NSWSC 1080 Button J [2018] NSWCCA 62	PG (10%)	20y 6m NPP 15y	AD	Nil	Stabbing Intent to kill	**SNPP 20 years** Spent evening with girlfriend and female friend drinking and smoking cannabis – confrontation early in night with boyfriend of female friend – boyfriend returned later in evening and waited in car at request of girlfriend – offender found knife in kitchen and stabbed victim three times – victim in car restrained by seatbelt – no provocation – motivation unknown – formed intent shortly before offence Remorse – support of family – no history of substance abuse or mental illness

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11.	**KHAN** (46) [2016] NSWSC 1073 Fullerton J	VG Murder 2 x Mansl s.35(2) s.35(4) s.197(1)(b)	Indicative: 30y NPP 22y 20y NPP 15y 5y NPP 3y 9m 2y 6m NPP 2y 8m 4y Aggregate 40y NPP 30y		Nil	Explosion Reckless indifference	**SNPP 20 years** Lessee of shop caused explosion intending to use insurance money to escape debts – killed male residing in unit above shop and mother and baby residing in unit above adjoining shop – two males also residing in unit above shop injured escaping explosion – manslaughter based on unlawful and dangerous act – murder above mid-range
12.	**ROFF** (51) [2016] NSWSC 1151 Fagan J [2017] NSWCCA 208	VG Murder Poss unauth weapon Sched: Failure to store weapons	32y NPP 24y $2000 fine	AA 25y NPP 18y 9m	Old minor weapons offence	Method unknown Intent to kill	**SNPP 20 years** Pre-mediated and planned killing of partner of female co-offender – killed victim in order to openly establish relationship with co-offender – provided sleeping tablets to co-offender – entered house and killed victim in unknown way – disposed of body – aggravating factors: use of stupefying drug – in company – in home of victim – planned activity Prior good character in face of difficult personal life – motivated by infatuation for co-offender – good prospects of rehabilitation – suffering chronic work injury
13.	**HOSSEINIAMRAEI** (33) [2016] NSWSC 1181 RA Hulme J	PG (25%) Sched: 4 offences	21y NPP 15y 9m		Nil – breached ADVO	Stabbing Intent to kill	**SNPP 20 years** Stabbed estranged wife while sitting in car in shopping centre car park – 56 stab wounds with scissors – above mid-range – previous violence and threats to kill – angry that wife had left marriage Born in Iran – suffered persecution due to religion - small reduction in culpability due to mental condition

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14.	**ROGERSON** (75) **MCNAMARA** (57) [2016] NSWSC 1207 Bellew J [2021] NSWCCA 160	VG Murder Supply lge comm qty ice VG Murder Supply lge comm qty ice	Life 12y NPP 9y Life 12y NPP 9y	Conviction AD Conviction and Sentence AD	Dishonesty offences Nil	Shooting Intent to kill Joint criminal enterprise	**SNPP 20 years** Joint criminal enterprise to kill 20y male drug dealer and take 2.78kg ice – extensive planning weeks prior to shooting – arrangements made to source and prepare suitable place for killing as well as car and boat used for disposal of body – victim lured to storage unit and shot dead by one offender – body dumped at sea – drugs repackaged for disposal – brutal execution – no material distinction in roles Both offenders former police officers – importance of sentence to deter police officers misusing knowledge gained through profession – objective gravity so grave ignore small number of mitigating factors On sentence appeal: 2 stage approach correct approach for life sentence
15.	**DA SILVA** (60 at offence, 67 at sentence) [2016] NSWSC 1214 Harrison J	VG	24y NPP 18y		No relevant criminal record	Assault Intent to kill	**SNPP 20 years** (2010) – killing of female former partner by blunt force trauma to head - inflicted while victim asleep in bed – weapon not known - offence pre-meditated and planned - above mid-range No remorse or contrition –age – prior good character.

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16.	**HAINES** (31) **LEE** (37) [2016] NSWSC 1333 Harrison J	PG (20% - plea and assist) Murder AR PG (15%) Murder AR	14y 8m NPP 11y 5y <u>Total</u>: 15y 8m NPP 12y 17y 6m NPP 13y 6m 5y <u>Total</u>: 18y 6m NPP 14y 6m		Moderate record Significant record	Stabbing Constructive / joint criminal enterprise	**SNPP 20 years** Three offenders approach unit of known drug dealers with intention to rob occupants of drugs and money – during violent struggle one occupant fatally stabbed by L – second occupant assaulted by H and stabbed by L – planned robbery shortly before arriving at unit – constructive murder based on armed robbery with wounding - H did not foresee possibility knife would be used with relevant intent – below mid-range for both offences Lifelong drug addicts – difficult family backgrounds - remorse H - borderline intelligence – reasonable prospects of rehabilitation L – limited prospects of rehabilitation

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17.	**CAMERON** (62) **FORWARD** (21) [2016] NSWSC 1342 Fagan J [2017] NSWCCA 229 (Cameron) Co-offender: ZANKER [2017]	PG (40% plea and assist) Murder Cultivate lge comm qty (25% plea) PG (30% plea and assist) Murder (25% plea) Cultivate lge comm qty	24y NPP 18y 10y NPP 7y 6m <u>Total</u>: 28y NPP 22y 21y NPP 15y 5m 3y NPP 2y 3m (concurrent)	AD	Persistent offender in relation to cannabis – breached parole for cannabis offence Nil	Stabbing Intent to kill	**SNPP 20 years** C one of two principals in hydroponic cannabis plantation in shed at rear of property – F and victim two of several workers – concerns developed as to violence and instability of victim – plan developed to kill victim – grave dug in remote area one week prior to killing – victim fatally stabbed by F in sustained assault in cannabis shed in presence of C and two others – body buried in grave – pre-meditated - killed to protect planation and financial gain for C – brutal killing – in company – disposal of body Planation involved 664 plants – highly organised and high volume commercial planation – involved some supply C – Principal in both offences F – willing participant – drug user probably impaired by substance intoxication at time of killing
18.	**STANFORD** (24) [2016] NSWSC 1434 RA Hulme J	PG Murder s 61J	Life 15y		Nil	Stabbing and assault Intent to kill	**SNPP 20 years** Killing and sexual assault of 26y female teacher – offender worked as cleaner at school – victim working alone on weekend - dragged victim into room – bashed head 30-40 times until unconscious – penile-vaginal penetration – stabbed victim to neck – careful disposal of body in bush – set body alight - returned to take photographs of body – disposal of jewellery to offender's brother Autism spectrum disorder – no remorse - harboured violent thoughts, including killing people, since a child - evidence of searches on internet in relation to violent rape - purchase of knives, handcuffs and other devices capable of use in carrying out acts of extreme violence - stalking of other females

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19.	**PRATSCH** (46) [2016] NSWSC 1466 Wilson J	PG (10%)	22y 6m NPP 16y 10m		Larceny, BES, possess drugs, dishonesty offences.	Stabbing Intent to kill	**SNPP 20 years** Female - stabbed 50y male acquaintance after drinking together – victim vulnerable, suffering from disabilities due to brain injury - returned together to victim's home – tied victim naked to bed – stabbed 20 times – serious deep wounds – took ATM card and withdrew money. Dysfunctional background – drug addiction – mental illness.
20.	**MURDOCH** (30) [2016] NSWSC 1475 Mathews AJ	VG Murder Agg armed robbery	28y NPP 21y 8y Total: 30y NPP 22y 6m		Armed robbery, kidnapping, dishonesty.	Shooting At least GBH	**SNPP 20 years** With co-offender robbed store – offender shot store employee during robbery at close range - motive to enable co-offender to escape after he had been lawfully captured - robbed second victim of a sum of cash while armed with pistol - above midline of objective seriousness. Institutionalised - dysfunctional background – illiterate – drug abuse from young age - acquired brain disorder - substance abuse disorder - personality disorder
21.	**PERRY** (24) [2016] NSWSC 1562 Mathews AJ	PG (12.5%)	17y 6m NPP 13y		Nil	Shooting Reckless indifference	**SNPP 20 years** Shot 18y male known to offender - following argument agreed to meet to fight – shot victim in neck – had firearm because he was concerned for his welfare, given abusive messages sent by victim to offender - spontaneous act not premeditated - intention to frighten victim away - acted with reckless indifference rather than intent - significantly below midline of objective seriousness. Good character – employed – supportive family – suffering serious spinal condition – special circumstances
22.	**QUINN (No.3)** [2016] NSWSC 1699 Beech-Jones J [2018] NSWCCA 297	VG	20y NPP 15y	AD	Nil	Stabbing Intent to kill	**SNPP 20 years** Previously in long term relationship with victim – could not accept break up and after spending night together stabbed victim with kitchen knife in neck – immediately stabbed self in attempted suicide causing quadriplegia – mid- range offence – moral culpability slightly reduced by borderline personality disorder Hardship in custody due to physical condition – permanently in hospital

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23.	**HEJABIAN** (37) [2016] NSWSC 1692 Hidden AJ	VG	21y NPP 15y 9m		Minor – breached bond	Assault / asphyxiation Intent to kill	**SNPP 20 years** Killed female girlfriend in her own home – developed obsessive relationship with victim - spontaneous act during argument – attempted suicide causing health issues – trial ran on basis of substantial impairment only – mental health did affect culpability Suffering PTSD from treatment in home country of Iran – also struggling with wife suffering from schizophrenia
24.	**DAVIS (No 2)** (26) [2016] NSWSC 1785 RA Hulme J [2018] NSWCCA 277	VG 2 x Murder Attempt murder	Indicative 30y NPP 22y 6m 16y NPP 12y Aggregate: 40y NPP 30y	Conviction AD	Nil	Injected with insulin Intent to kill	**SNPP 20 years** Nursing assistant injected aged care facility residents with insulin – vulnerable victims – extreme breach of trust - no specific motive known – callous offences – not spontaneous - well above midrange Subjective circumstances do little to mitigate penalty - good character.
25.	**HAINES (No.3)** (46) [2016] NSWSC 1812 Garling J [2018] NSWCCA 269	VG 2 x murder	Indicative 30y NPP 22y 6m Aggregate 36y NPP 27y	AD	Minor drug possession	Injected with insulin Intent to kill	**SNPP 20 years** Female nurse at aged care facility injected two residents with insulin shortly after being advised they had made complaint about her care – caused coma – aggravated by being committed in 'home' of victim, abuse of trust and vulnerable victims – deliberate and calculated act but short term planning – no prolonged pain and suffering – significantly above mid-range Difficult childhood – previous findings of misconduct as a nurse and subject to reporting conditions at time of offending
26.	**SWAN** (31) **KIMURA** (50) [2016] NSWSC 1819 N. Adams J	VG	26y 6m NPP 19y 6m 23y NPP 17y		Breached conditional liberty – assault offences Minor	Assault Intent GBH	**SNPP 20 years** Two males broke into unit and stole property – agreement reached in unit to assault elderly male occupant – victim assaulted by S – died of injuries 8mths later – just above mid-range – S more culpable than K – aggravating factors: in company – in victim's home – vulnerable victim – S armed with large knife S – Aboriginal male - deprived childhood K – Maori – assaulted in gaol because gave evidence on sentence and in protection – fearful for life – facilitated trial

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27.	**A. CHARBAJI** (26) **H. CHARBAJI** [2016] NSWSC 1867 Rothman J [2019] NSWCCA 28	VG VG	32y NPP 24y 36y NPP 27y	AD AA 34y NPP 25y 6m	Rob in company – AOABH - possess proh weapon Robbery – assault - steal from person - AOABH in company – stalking - assault police officer - breach ADVO - dishonesty	Stabbing – assault - force-fed drugs Joint criminal enterprise Intent GBH	**SNPP 20 years** Brothers – male victim beaten by hand and ratchet, stabbed and force-fed lethal amount of drugs (Xanax) – dispute over money victim owed for drugs – bought suitcase and placed body inside – took body to remote area and poured kerosene over body - well-above mid-range in objective seriousness AC: inflicted knife wound – inflicted beating (either by hand or ratchet) that caused further, unnecessary pain - involvement in "torture" greater than co-offender HC: instigator – "owed" debt - lured victim to pub and brought him to apartment where murder took place AC: psychiatric disorders including schizophrenia – difficult background – drug abuse – poor rehabilitation prospects HC: difficult background – drug abuse – poor rehabilitation prospects HC appeal - disparity