Murder: 2020

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.	**SHEPHARD** [2020] NSWSC 141 Button J	PG (15%) Murder Supply drugs Sched: Proceeds of crime	24y 7m NPP 17y 8m NPP 5y 8m Total: 27y 7m NPP 20y 8m		Possess firearm	Shot Intent to kill	**SNPP 20 years** Shot female victim 3-4 times at close range in company of co-offenders - believed victim had broken into girlfriend's home - not spontaneous – with co-offender buried body in state forest - body never found – supplier of drugs at intermediate level No subjective material – no evidence 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.	**HO** (38) **HOANG** (34) [2020] NSWSC 341 Hamill J	VG Murder s.166 certificate Possess replica firearms VG Murder	20y NPP 15y FT 3m (concurrent) 22y NPP 16y 6m		old violence offences – drug offences serious drug and firearms offences – minor violence	Stabbed Intent GBH Joint Criminal Enterprise	**SNPP 20 years** Ho arranged meeting with victim in suburban street in broad daylight after victim failed to pay for drugs – victim assaulted by group of men then fatally stabbed in chest - unclear who inflicted fatal chest stab wound All offenders entitled to benefit for facilitation of trial under s.22A and delay Ho – instrumental in setting up meeting – prepared knife but not aware taken to scene and would be used – went to meeting intent to cause harm but joined joint criminal enterprise to inflict GBH during assault – struck victim three times with iron rod knowing he had been stabbed – below mid-range due to short period of intent – Vietnamese with difficult childhood Hoang – stabbed victim twice but not established he had inflicted fatal wound – long standing drug problem – reasonable prospects of rehabilitation Co-offenders LK (2019) and Feroz, Nguyen and Trinh (2020) dealt with for manslaughter
3.	**HICKSON** (30 – 61 at sentence) [2020] NSWSC 340 Davies J	VG	22y NPP 15y		lengthy including violence – breached conditional liberty	Stabbed / assault Intent GBH	(1989) Stalked bookmaker for several months planning robbery – victim stabbed and assaulted in garage after returning from track at night with cash – offender stabbed victim in presence of second man – robbery that went wrong – objective seriousness increased by use of knife – above mid-range Delay – DNA match – physical and mental health issues Consideration of sentences at time of offence

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4.	**DS** (15)	PG (10%) Murder Agg take and drive motor vehicle Sched: Agg enter dwelling to steal	15y 4m NPP 10y 9m 6y 4m <u>Total</u>: 18y 4m NPP 13y 9m	AA 13y 6m 3y <u>Total</u>: 14y 6m NPP 10m	dishonesty offences – carrying knife in public place	Stabbing intent to kill Constructive murder Accessory	'Violent and uncontrolled criminal rampage' over one evening and early morning - group approached male acquaintance sitting on bench – DM struck victim to head with bottle causing nose fracture and lacerations – with third male attended home of different male acquaintance with intent to steal – during struggle victim struck to head – two offenders then attended service station – DM fatally stabbed attendant multiple times in cowardly and unexpected attack – wrote letters on window using blood of victim – DS stole till and cigarettes – offenders left service station and waved down passing car – DM stabbed occupant and DS threatened him with wheel brace - offenders drove off in car – both victims vulnerable. DM – intent to kill prior to entering service station – cold-blooded murder – primary offender - exposed to family violence causing PTSD – early substance abuse – mild intellectual disability – schizophrenia – some acceptance of responsibility – substantial risk of re-offending DS – lesser offender – not aware of intent to kill in advance but no attempt to stop DM or assist victim – continued to steal – Aboriginal youth – difficult childhood – early drug use – borderline intelligence – genuine remorse – favourable prospects of rehabilitation CCA: DS – sentencing judge erred in assessing objective seriousness of offending by reference to his involvement in DM's offence - failed to give effect to special circumstances based on youth and rehabilitation. DM – Murder sentence disproportionate – sentences for other offences manifestly excessive – murder above middle of range of objective seriousness.
	DM (16) [2020] NSWSC 422 Bellew J [2022] NSWCCA 156	PG (10%) Murder AR with wounding Wound with intent GBH Agg take and drive motor vehicle Sched: AOABH Agg enter dwelling to steal	31y 6m NPP 23y 6m 11y 8m 12y 6m 9y <u>Total</u>: 35y 6m NPP 27y 6m	20y 8m 7y 2m 7y 2m 4y <u>Total</u>: 27y NPP 20y 7m	lengthy record for minor violence; assault law enforcement officer, inflict ABH.		

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5.	**TANGI (No.12)** (28) [2020] NSWSC 547 Rothman J	VG	30y NPP 22y 6m		assault and domestic violence – offence committed while on remand – multiple misconduct charges in prison	Assault Intent GBH	**SNPP 20 years** Fatal assault on fellow prisoner while alone in cell – argued with victim over several days prior to assault – led victim into cell while another prisoner stood guard – stomped on victim's head at least once – some planning but intent to inflict GBH did not develop until after assault commenced – above mid-range Little or no insight – no remorse – difficult custodial conditions exacerbated by pandemic restrictions – difficult childhood resulting in disempowerment and social exclusion
6.	**CC** [2020] NSWSC 946 Harrison J [2021] NSWCCA 71	PG (20% combined with assistance)	40y NPP 30y	AD Crown AD	Record but no details	Shot Intent to kill	**SNPP 20 years** Contract killing – paid $20k by AM to shoot 15y male victim to avenge death of AM's nephew - AM provided gun – offender kicked open front door of victim's home where victim lived with his mother, her partner and other children – shot sleeping victim in head in bedroom - above right ear Aboriginal male - social and economic disadvantage - underlying paranoid schizophrenia - undertaking to give assistance On appeal: failure to specify discount for undertaking to give assistance did not invalidate sentence Crown appeal: despite breach of undertaking Crown able to use statement in judge alone trial and obtain utilitarian benefit

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7.	**SALES** (31 at offence / 56 at sentence) [2020] NSWSC 1183 Garling J	PG (40% combined) Murder Solicit murder	15y NPP 8y 6m 12y NPP 7y 2m Total: 18y NPP 11y 6m		Recent lengthy sentences imposed for multiple sexual violence offences	Assault / choke Intent to kill	(1995) - lured 54y male associate to bushland area promising search for buried money – victim dug deep hole – assaulted victim with baseball bat them choked him to death using bat – offence committed in presence of brother – body buried in hole and never recovered – planned offence – gratuitous cruelty – very serious example That evening solicited brother to kill offender's ex-partner – threatened to kill brother – careful planning to set mental health defence for brother – charged with breach of AVO against victim – brother shot at victim with shortened firearm in foyer of courthouse causing serious injury – toward upper end of range Some remorse – some discount for voluntary admissions – background of sexual and physical violence and abuse Sentence imposed partially concurrent to very lengthy existing sentence for sexual offences
8.	**WARWICK (No.94)** (33-35 at offences 73 at sentence) [2020] NSWSC 1168 Garling J	VG 3 x Murder 2 x explode device with intent murder: s.28 Place explosive device in vehicle with intent murder: s.30 Place explosive device with intent damage building: s.204 13 x cause GBH by explosion: s.46	Life 25y 15y 10y (Aggregate) 25y		No significance	Shot Explosive devices/bomb Intent to kill	(1980-1985) – 'Family Court bomber' – acted against anyone considered to be acting contrary to interests in maintaining access to daughter and preserving own financial position during Family Court proceedings - shot and killed Family Court judge at his home with children inside – bombed home of second judge while children present - bombed Family Court – bombed home of third judge killing judge's wife – planted bomb in car of solicitor of ex-wife – caused explosion at premises of Jehovah's Witnesses killing one person and injuring others - sophisticated planning, preparation and careful conduct - sustained course of conduct – highest objective seriousness

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9.	**DONG** (19) [2020] NSWSC 1277 Hidden AJ [2021] NSWCCA 82	PG (25%)	18y NPP 13y 6m	Crown AA 21y NPP 15y 8m	Nil	Unknown Intent to kill	**SNPP 20 years** Killed female flatmate in her own room and left body in gully beside major road – motive and method of killing unclear – some planning – considerable seriousness – aggravated by being in victim's home and disposal of body Long standing schizophrenia and subnormal intelligence of some bearing on moral culpability – difficult background – guarded prospects of rehabilitation – Chinese national – isolated and vulnerable in custody On appeal: SJ failed to consider protection of community
10.	**FREDES** (58) [2020] NSWSC 1332 Hidden AJ	PG (25%)	17y 3m NPP 13y		Minor and old - not significant	Stabbing Intent GBH	**SNPP 20 years** Stabbed ex-partner after she did not wish to be intimate – upset victim in new relationship – unplanned, impulsive – deliberate act – sought to obtain medical assistance – isolated incident in a long relationship with no suggestion of prior abuse – below mid-range Remorse - borderline personality order – background of physical and sexual abuse as a child
11.	**WANG** (29) [2020] NSWSC 1335 Beech-Jones J [2021] NSWCCA 282	PG (25%)	25y 6m NPP 19y	AD	Nil	Stabbing after victim fell from balcony Intent to kill	**SNPP 20 years** Female – killed female ex-partner - after physical confrontation, victim tried to escape and fell from balcony of fifth floor apartment severely injuring herself – offender inspected victim then returned to apartment to obtain a knife before returning to stab victim - not impulsive or spontaneous – 40 stab wounds, approximately 18 incised and puncture wounds, 18 stab wounds to neck Risk of serious reoffending low but not negligible - major depressive disorder On appeal: rejected fresh evidence – no further error
12.	**FLETCHER** (19 at offence / 21 at sentence) [2020] NSWSC 1478 R A Hulme J Co-offenders: GARVEY (2021) JONES(2021)	PG (35% combined)	15y NPP 11y 3m		Children's Court offences – affray	Machete / assault Accessory	**SNPP 20 years** Joint criminal enterprise – with two co-offenders targeted home invasion to steal drugs – co-offenders attacked victim with machete, knife and baseball bat – sustained vicious attack Reasonably good prospects of rehabilitation and of not reoffending – assistance – youth, immature, remorseful

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13.	**STONE (a pseudonym)** (37) [2020] NSWSC 1485 R A Hulme J Co-offender: MCCOSKER	PG (35% combined)	23y 4m NPP 17y 6m		Poor – breached bond	Petrol fire Intent to Kill	**SNPP 20 years** Met up with victim in remote area to refuel bike with petrol purchased by victim at request of offender – in spontaneous and deliberate act splashed victim with petrol who then caught fire – left victim screaming – returned one hour later with co-offender – made decision to finish off victim who had crawled 250 metres to road – returned again with petrol and set victim further alight – victim found two hours later but died in transit to hospital – no motive – brazen act of extreme, cruel and sadistic violence – upper range of seriousness Disadvantaged childhood – exposed to parental incarceration, drug use, neglect and anti-social influences – poor education and early drug use – chronic drug user – genuine remorse – assistance – difficult custodial conditions
14.	**CLOSE (No.2)** (31) [2020] NSWSC 1565 Button J	VG Murder s.166 Certificate Reckless damage Assault	21y NPP 14y 3m 6m (concurrent)		Violence – breached bail	Stabbing Intent to kill	**SNPP 20 years** Attended home of victim in agitated and angry state seeking drugs – trusted associate – victim old, sick and weak man – when no drugs found ransacked house and stabbed victim 50 times – spontaneous, unplanned and irrational - left home and wandered streets damaging car and assaulting bystander – no memory of offence because of substance intoxication – very serious example of offence Offered to plead to manslaughter – Aboriginal male - disadvantaged upbringing – family domestic violence – frequent relocation – disrupted education – financial and emotional hardship – introduced to cannabis by mother at early age – substance addiction – father by 15y – significant impact on mental health – causative factor in offending – some remorse – some prospects of rehabilitation
15.	**JAGHBIR (No.4)** (28) [2020] NSWSC 1704 Davies J [2023] NSWCCA 175	VG Procure, aid and counsel murder	11y NPP 6y 6m	Conviction AD	Subsequent offences of pervert course of justice and dishonesty	Shooting Accessory	Replaced front door of victim's unit at request of victim – kept duplicate key – intruders obtained access to unit at night and fatally shot victim in bed – assistance involved passing on duplicate key allowing assailants easy access to bedroom and some phone calls – aware offenders had accessed building two nights earlier – opportunistic offence – took advantage of position of trust – just below mid-range Married with young children – protective custody

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16.	**RYAN** (64) [2020] NSWSC 1629 Button J	VG Murder PG Breach AVO	23y NPP 17y 18m (concurrent)		Sparse	Stabbing Intent to kill	**SNPP 20 years** Stabbed to death ex-partner of several decades in kitchen of her home with two knives – unplanned and frenzied killing motivated by jealousy and anger at victim's new relationship – threatened victim in month before – interim AVO imposed on morning of killing – during stabbing forced victim to phone her sister Suffering permanent and untreatable brain damage from long-term substance abuse and depression at time of killing – causally linked to offending although rejected plea of guilty to manslaughter (substantial impairment) – generally of good character and good prospects of rehabilitation – likely to die in gaol
17.	**TURNBULL** [2020] NSWSC 1785 Hamill J	PG (25%)	18y NPP 12y 6m		Lengthy – breached parole for reckless wounding	Stabbing Intent GBH	**SNPP 20 years** Female socialising with male victim over afternoon – both under influence of drugs – outside units stepped up behind victim and stabbed him in back multiple times – unplanned and senseless killing – no evidence of animosity – a little below mid-range Genuine remorse – appalling history of trauma, dispossession, abandonment and deprivation through childhood resulting in serious mental heath issues, violent adulthood and substance abuse – causally related to offence - *Bugmy* factors applied
18.	**McCOSKER** (49) [2020] NSWSC 1822 RA Hulme J [2022] NSWCCA 127 Co-offender: STONE	VG	36y NPP 27y	AD	Lengthy although mostly Local Court – breached bond imposed 3 weeks earlier for possess prohibited weapon	Petrol fire Intent to kill Accessory	**SNPP 20 years** Contacted by co-offender who had just set fire to male victim in isolated area – returned with co-offender and found victim on side of road – accepted decision of co-offender to finish off victim and drove to obtain more fuel – upon return co-offender doused victim with more fuel and set alight – victim found two hours later but died in transit to hospital – sadistic and callous killing – history of animosity between offender and victim – supported and assisted offender's idea to kill victim – offence easily in upper range – same culpability as co-offender Long-term drug user

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19.	**DUFTY** (24) **TISDELL** (22) [2020] NSWSC 1920 Cavanagh J	PG (25%) PG (25%)	18y 3m NPP 12y 18y 3m NPP 12y		Domestic violence, possess drug, reckless wounding Robbery in company, drugs	Assault Intent GBH	**SNPP 20 years** Assaulted victim after D heard victim had "disrespected" him behind his back – both D and T affected by drugs and alcohol – T struck deceased to head with breaker bar / L-bar from vehicle – D kicked and punched – with third co-offender placed victim still alive in car boot and drove to forest - found died in transit - mutilated body, threw hands into river and set fire to body Aboriginal males – disadvantage included drug use from early age