Murder

Element of Provocation

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)

offences committed on or after 24.11.2025 and where victim was an intimate partner of the offender

	NAME (age if known)	PLEA	SENTENCE	APPEAL	SUMMARY OF RECORD	HOW KILLED	INVOLVEMENT & SUMMARY
1.	**MEHMET** (38) [2002] NSWSC 1154 Bell J [2004] NSWCCA 24	VG	18y NPP 13y 6m	AD		stabbing Intent to kill	During argument with estranged wife stabbed her in chest 7 times - attempted to clean up scene - some degree of provocation and loss of self-control – unpremeditated Uncharacteristic behaviour
2.	**SIEVERS** (58) [2002] NSWSC 1257 Sully J (2004) 151 A Crim R 426 [2004] NSWCCA 463	VG	Life	AD	serious record for violence - shooting murder of estranged wife	stabbing intent GBH	Stabbed de facto wife during argument - disposed of body in country - volatile and violent relationship - element of provocation Protective custody - health problems - disturbed and violent childhood - personality disorder making him dangerous in domestic situations involving extreme stress

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

	NAME (age if known)	PLEA	SENTENCE	APPEAL	SUMMARY OF RECORD	HOW KILLED	INVOLVEMENT & SUMMARY
3.	**PETERS** (32) [2002] NSWSC 1234 Wood CJ at CL	PG (15%) 2 x Murder Sched: 6 x s.178BA(1)	17y NPP 9y Total: 21y NPP 13y		relatively minor record	stabbing intent to kill	Killed homosexual lover by stabbing in neck - mutilated and disposed of body - used credit card to withdraw money - 6 months later stabbed to death new lover - decapitated body found in bath - on both occasions badly affected by drugs - element of provocation - Battered Woman's Syndrome - not premeditated - mutilation done after killing Borderline personality disorder - infected by HIV by first partner - manipulated by both partners - low risk of re-offending provided remain drug free - significant reduction in life expectancy
4.	**ABOU-CHABAKE** (26) [2003] NSWSC 125 Howie J (2004) 149 A Crim R 417 [2004] NSWCCA 356	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
5.	**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
6.	**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
7.	**COOPER** (40) [2005] NSWSC 791 Buddin J [2011] NSWCCA 258	VG Murder PG (25%) Pervert course justice	22y NPP 16y 6m FT 18m Total: 22y 6m NPP 17y	Conviction AD	lengthy – including violence – breached parole	Assault Intent GBH	Assaulted male acquaintance in home of offender and partner in response to comments made by victim – assault with baseball bat and tomahawk – spontaneous response to provocation – below mid-range - disposed of body in nearby forest with assistance of friend

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8.	**HEFFERNAN** (39) [2005] NSWSC 739 Hoeben J [2006] NSWCCA 293	VG	14y NPP 10y	Conviction AD	wounding and minor traffic and drug offences	Assault Intent GBH	Argument with victim over sexual advance made to offender's girlfriend – bashed victim on head with saucepan and piece of wood – self-defence, provocation and intoxication rejected by jury Possible schizophrenia induced by amphetamine use – alcohol problems – remorse
9.	**BARTON** (47) [2007] NSWSC 651 Buddin J [2009] NSWCCA 164	VG Murder Manslaughter Att Murder	37y NPP 30y FT 5y FT 13y Total: 42y NPP 35y	AD	Old offence involving fire	Fire Intent to kill	**SNPP 20 years** Shot male acquaintance in back of head during argument – manslaughter by provocation – victim a violent man blackmailing offender over many years – genuine fear for safety – cared for victim's children during following day – dosed children with methadone and set fire to house – intent to cover killing of male – 3y girl killed in fire (murder) – 5y boy rescued by offender (att murder) – significant element of planning – relationship between manslaughter and subsequent offences – murder objectively worst case Ill health – protective custody – personality deficits exacerbated by victim's behaviour and death of mother
10.	**BARBETTA** (44) [2008] NSWSC 688 Howie J	PG (20%)	18y 7m NPP 13y 9m		Little significance	Assault Intent GBH	**SNPP 20 years** Fatal assault on 65y neighbour in victim's home – element of provocation in form of racial taunts – incontrollable rage – forced keys down throat of victim – intoxicated with drink and drugs – ransacked unit – just below mid-range seriousness Remorse
11.	**YOUMARAN** (24) [2008] NSWSC 762 Rothman J	PG (12.5%)	17y 4m NPP 13y		Not significant	Shooting Intent to kill	(2002) - Fight broke out at hotel between two groups – history of animosity between some members of each group (not offender) – offender and another returned to car and took out glock pistols – shot at hotel – offender killed male victim shooting at him while on ground – not premeditated offence – element of provocation Prospects of rehabilitation Co-offender Mirad [2004] NSWSC 701, sentenced as acc after fact
12.	**FAEHNDRICH** (50) [2008] NSWSC 877 Price J	VG	20y NPP 15y		Priors for violence	Stabbing Intent to kill	**SNPP 20 years** Stabbed female partner with scissors during argument in hotel room – turbulent relationship – victim attempting to leave relationship – element of provocation – suffering depression and personality disorder – lower half of mid-range of seriousness Offered to plead guilty to manslaughter – abusive childhood

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13.	**HOWARD** [2008] NSWSC 934 Hulme J	PG (12.5%) Sched: 2 firearms offences	18y 6m NPP 14y		Alcohol related	Shooting No intent to kill	**SNPP 20 years** Argued with son at service station one hour before offence – son approached offender at home – fired warning shot then fired two shots into head and body – apprehensive – element of provocation and self-defence – spontaneous offence – intoxicated – no intent to kill Remorse – good prospects of rehabilitation
14.	**O'CONNOR** (64) [2008] NSWSC 1297 Studdert AJ	VG	21y NPP 16y		Old offence of culpable driving	Shooting Intent to kill	**SNPP 20 years** Shot wife twice as she descended from roof by ladder – spontaneous offence – element of provocation and loss of self-control – history of arguments and disagreements in marriage – buried body – just below mid-range Remorse – prospects of rehabilitation
15.	**SPANIA** (45) [2009] NSWSC 148 Barr J	PG Murder 3 x Firearms offences	24y NPP 18y FT 3-6m (concurrent)			Shooting Intent GBH	**SNPP 20 years** Shot 53y brother – history of being bullied by brother – feared brother – brother visited unit with 5y son uninvited – refused to leave – threatened with gun – shot once in chest – no premeditation – provocation - little below mid-range Iraqi – below average intelligence – physical disability caused by polio – remorse – obtained weapon for general protection years earlier
16.	**WICKS** (47) [2009] NSWSC 266 James J	PG (10%)	20y NPP 15y		Minor offences – drugs and assault	Stabbing Intent to kill	**SNPP 20 years** Multiple stab wounds to female acquaintance – argument over drugs – spontaneous offence – element of provocation – sustained attack – judgment affected by alcohol – loss of self-control – a little below mid-range Long term substance abuse – attempted suicide after viewing autopsy report – remorse – good prospects of rehabilitation
17.	**WARD** (39) [2010] NSWSC 304 Howie J [2013] NSWCCA 46	VG	25y NPP 18y 9m	AD	Traffic matters – mal wounding of husband – bad driving record	Driving Intent GBH	**SNPP 20 years** Female driver of car became involved in dispute with group of male pedestrians in early hours of morning – drove at male victim twice before crushing him under car – excessive response to trivial provocation – mid-range Intoxicated and under influence of cannabis – unlicensed driver – aggressive when intoxicated – immediate remorse - suffers bipolar disorder

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18.	**BORG** (53) [2010] NSWSC 951 Studdert AJ	VG	21y NPP 16y		Minor and old record	Strangulation Intent to kill	**SNPP 20 years** Strangled ex-de facto partner and business partner during struggle – serious dispute over business arrangement where victim indicated offender would be replaced – became enraged – spontaneous offence – element of provocation – below mid-range Suffering anxiety and personality disorder at time of offending
19.	**DONG** (48) [2010] NSWSC 1242 Price J	VG	24y NPP 17y		Nil	Assault Intent to kill	**SNPP 20 years** Struck victim at least nine times to the head with a hammer during argument over payment for house renovations – body placed in water in bathtub and attempt made to clean up house – struck number of blows to head while victim on ground – ferocious attack – unplanned – element of provocation in unreasonable demands of victim – mid range seriousness Prior good character – reasonable prospects of rehabilitation
20.	**SHIELS** (20) [2011] NSWSC 1177 Barr AJ	VG	20y NPP 13y		Bonds for assaults including assault on victim – committed while mentally ill	Stabbing Intent to kill	**SNPP 20 years** Stabbed father in temple during argument at party – both intoxicated - history of violent arguments with father – spontaneous offence – issue at trial was substantial impairment, provocation and self defence Suffering schizophrenia – regular user of marijuana and alcohol – voluntary surrender to police – remorse – prospects of rehabilitation
21.	**KJS** (36) [2011] NSWSC 1690 Hidden J	VG	20y NPP 15y		nil	Assault Intent to kill	**SNPP 20 years** Bashed wife to death in bedroom with plumber's tool – angered by indication from victim she accepted daughter's allegation of long-term sexual abuse at hands of offender – argued over prior weekend – significantly below mid-range Good character – no history of violence – offered to plead guilty to manslaughter (provocation)

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22.	**FAHDA** (21) [2012] NSWSC 114 Harrison J [2013] NSWCCA 86	VG	20y NPP 14y	Crown AD	Nil significant	Shooting Intent to kill	**SNPP 20 years** Shot male acquaintance seven times while sitting in car at service station after chance encounter – part of feud – victim's brother charged at time of soliciting murder of offender's brother – degree of provocation – unpremeditated – offence committed in front of offender's wife and children – mid-range objective gravity Violent and difficult childhood with sexual abuse and family mental health issues – developed severe psychiatric illness after brother killed in context of very low intelligence – protective segregation
23.	**WILLMOTT** (35) [2012] NSWSC 824 Price J [2013] NSWCCA 244	PG (20%)	28y NPP 21y	AD	Assault offences – breached parole for GBH	Stabbing Intent to kill	**SNPP 20 years** Male victim became aggressive towards offender during drinking session with friends at cabin in caravan park – offender returned to mother's caravan and armed himself with two small steak knives – met up again with victim and angry confrontation broke out – frenzied and sustained stabbing attack – attempted to cut off head in front of witnesses - small degree of provocation – spontaneous Under influence of alcohol and ice
24.	**ISKANDER** (55) [2012] NSWCCA 1324 Davies J Co-offender: ISKANDER	VG	23y NPP 17y		Bond for common assault	Stabbing Intent to kill	**SNPP 20 years** Ambushed wife's lover outside his home with 19y son - confronted and attacked victim in street with hammer – chased victim and stabbed him in chest and back – kicked female passer-by attempting to protect victim on ground – vicious and prolonged attack - a little above mid-range seriousness – significant pre-planning Genuine remorse – upset over relationship between victim and offender's wife – discount for offer to plead to manslaughter - provocation
25.	**BARLOW** (24) [2013] NSWSC 217 Harrison J	PG (10%)	23y NPP 17y		Priors including violence	Stabbing Intent GBH	**SNPP 20 years** Physical altercation with victim outside hotel – returned short time later with two friends – stabbed victim in chest four times without warning – degree of pre-meditation – element of provocation – intoxication – revenge – mid-range Aboriginal male – deprived childhood – drug and alcohol addiction – genuine remorse and contrition

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26.	**SUTCLIFFE** (40) **HOSKINS** (39) **MOULDS** (30) [2013] NSWSC 715 Grove AJ Sutcliffe [2014] NSWCCA 208 Hoskins [2014] NSWCCA 207 Hoskins [2016] NSWCCA 157	VG	16y NPP 12y 12y NPP 9y 10y NPP 7y 6m	Conviction AD Conviction AD Sentence AD	Manslaughter Assault Minor	Stabbing Intent GBH Joint criminal enterprise	**SNPP 20 years** Joint criminal enterprise - confrontation over victim's belief that offenders were responsible for damaging prized motor vehicles – victim arrived armed with gun and discharged shots – all three offenders chased and assaulted victim - S inflicted stab wound – H armed with baseball bat and intended to inflict serious injury – neither H or M aware of knife - provocation S: family – young child H: poor health – protection M: developmental disability – rehabilitation prospects. Fourth offender Brown convicted of manslaughter
27.	**ABDALLAH (No.7)** (25) [2014] NSWSC 829 Campbell J	VG	26y 8m NPP 20y		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
28.	**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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29.	**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.
30.	**RAJAB** (22) [2017] NSWSC 975 Fullerton J	PG (15%)	21y NPP 15y 6m		Driving offences	Shooting Intent to kill	**SNPP 20 years** Aware victim standover man and feared for safety of family and self after intervening on behalf of friend in relation to drug debt – arranged meeting between victim and friends in park – 'warning shot' from car striking victim in leg – approached victim on ground and shot in neck after victim made further threats – not premeditated – meeting in park not arranged with purpose of killing – culpability reduced by low intelligence and dissociative state – element of provocation – aggravating factors were use of firearm and shots fired in public place Out of character – remorse Friends who met victim in park sentenced for accessory after the fact and conceal serious offence
31.	**YAVUZ** (34) [2019] NSWSC 95 Davies J	VG	21y NPP 15y 9m		assault	Stabbed Intent GBH	**SNPP 20 years** Offender assaulted by male neighbour while sitting in car with partner – attack unprovoked - returned to neighbour's house with knife and inflicted fatal stab wound to chest – low to mid-range objective seriousness
32.	**SPINKS** (33) [2021] NSWSC 649 Hamill J	VG (5% discount for trial conduct)	20y 10m NPP 15y 7m		Record includes drugs, BES and assault offences – serious subsequent offences	Shooting Intent to kill	**SNPP 20 years** Nine days prior to killing victim threatened offender with knife in offender's home – several days later offender observed driving past victim's car parked at friend's house – just before 2.10am drove past car again and fired shots striking victim standing next to car – pre-meditated – planning – public place – presence of victim's partner in front seat – upper end of mid-range – aggravated by use of 12-gauge shotgun – element of provocation – affected by PTSD from unrelated violent assault 6 months earlier High degree of pre-trial disclosure – mental health issues justified significant reduction in moral culpability - long term drug abuse - delay

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33.	**WRIGHT** (34) [2025] NSWSC 822 Cavanagh J	PG (25%) Murder Possess stolen firearm Sched: 4 firearms offences	17y 3m NPP 12y 3y NPP 2y (concurrent)		On parole – nil significant	Shot Intent to kill	**SNPP 20 years** Acrimonious relationship with housemate over rent – became angry when believed victim contacted RSPCA resulting in seizure of dogs – confrontation in shed resulted in victim shot in arm in unclear circumstances – followed by deliberate shooting to upper back – spontaneous act motivated by anger - victim shot in own home – concealed body first on property then buried at second property – lied about whereabouts of victim for several weeks – slightly below mid-range Difficult childhood, substance abuse and depressive disorder – reduction in moral culpability due to Bugmy factors – limited remorse – good prospects of rehabilitation – special circumstances
34.	**CAIRNEY** (52) [2026] NSWSC 287 Campbell J	VG	20y NPP 13y 6m		Assault, affray. assault police, agg sexual int w/o consent, B&E, common assault	Stabbed Intent GBH	**SNPP 20 years** Single stab wound – close friends, re-acquainted after years of no contact - victim resided with offender - being evicted after hostile encounters - victim repeatedly returned to offender's home despite being told to leave - over several hours, fuelled by victim's intoxication, mutual aggression, and dispute about victim's car alleged by victim to be missing - victim chased offender armed with offensive weapon of some description - also used metal pole striking offender and offender's partner to head – offender armed himself with large kitchen knife, knowing victim at that stage unarmed – during struggle stabbed victim once above collar bone intending to drive victim away - stab ruptured major artery – child present in home - lower end objective seriousness. History of mental and physical illness - PTSD – childhood deprivation - *Bugmy* – special circumstances – remorse - some prospect rehabilitation.

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