

Manslaughter

Not Full Time Custodial Sentence

Maximum Penalty: 25 years (s.25 (NSW) Crimes Act)

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Bogunovich (1985) 16 A Crim R 456	Provocation Stabbing – domestic	PG	4y Bond			Stabbed husband after long history of domestic violence – on night of killing husband had struck offender outside club
2.	Roberts NSWSC Hunt J 31.8.1989	Unlawful and dangerous - shooting Shooting – domestic	PG	2y GBB		Nil	Aboriginal female shot husband - history of domestic violence - physical & psychological abuse - treated like a 'dog' - husband had ongoing affair - on day of offence violent argument - intended to shoot husband in leg but confrontation led to shooting in chest
3.	Gardner NSWSC Wood J 27.3.1992	Diminished Responsibility Provocation Shooting – domestic	PG	7y GBB			Shot husband under extreme stress – husband very ill with MS and physically dependent - child suffered cerebral palsy and was also utterly dependent - victim terrorised offender and kept gun beside bed – shot victim once, then buried and reported him as missing Extreme use of mechanisms of denial and repression developed to cope with major childhood traumas - son died in lead-up to trial - pregnant at time of sentencing - wholly exceptional case
4.	Peterson NSWSC 22.5.1992 Enderby J	Provocation Stabbing - domestic	PG	5y Bond (PSC 5m)		unimportant	Stabbed step brother in fight - element of self-defence - victim aggressively picked fight with offender - both had been drinking - no premeditation History of violence at hands of stepfather and brothers
5.	Spencer NSWSC Mathews J 18.12.1992	Provocation Stabbing – domestic	PG	3y PD		Nil	Killed de facto husband with single stab wound - history of domestic violence - victim physically and verbally abusing offender Fragile mental state

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
6.	Woolsey NSWSC Newman J 19.8.1993	Unlawful and dangerous – stabbing Stabbing – domestic	PG	4y GBB		nil	History of domestic violence when victim drunk – offender assaulted during argument with victim - picked up knife to scare victim off and stabbed him
7.	Gilham (25) NSWSC Abadee J 7.4.1995	Provocation Stabbing - domestic	PG	5y Bond		nil	Stabbed brother who had just killed their parents Remorse - excellent prior character and prospects for rehabilitation
8.	Armstrong NSWSC B-Parker J 25.8.1995	Negligence Child victim Failure to provide	VG	4y GBB		Nil	Mother failed to seek medical attention for four hours after child placed in scalding water by de facto - de facto convicted of murder
9.	Varagnolo NSWSC McInerney J 21.3.1996	Unlawful and dangerous - stabbing Stabbing – domestic	PG	2y GBB		mal wound but not relevant	Long history of violent relationship with victim, including rape - night of killing violent argument, including assault on offender's young daughter - picked up knife with intention of frightening victim - stabbing occurred when victim moved towards offender Very deprived background – part Aboriginal - stolen generation
10.	Kennedy (70) NSWSC Greg James J 30.6.1998	Unlawful and dangerous - stabbing Stabbing – domestic	PG	3y GBB			Stabbed 78y husband once in stomach - died fourteen days later Culpability affected by mental conditions including dementia – intoxication – poor health – abused by husband
11.	Hall (1999) 108 A Crim R 209 [1999] NSWSC 738 Bell J	Negligence Failure to provide	PG	5y GBB		minor	Victim staying with offender and co-offender H in caravan – assaulted by second co-offender S - offender failed to obtain help - all offenders intellectually impaired Female with good character S dealt with for mal inflict GBH H dealt with for acc after fact to infliction of GBH

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
12.	Korhonen (16) [1999] NSWSC 933 Hulme J (K) [2000] NSWCCA 24	Diminished responsibility Provocation Juvenile offender Stabbing - domestic	VG	4y GBB	Crown AD	insignificant	Stabbed man he had been staying with – previous week had been sodomised by victim – provocation very high Developmental delays and profoundly disturbed - appalling childhood - gross psychiatric disturbances - ill-equipped to deal with stress - positive evidence of rehabilitation
13.	Wilson (40) [1999] NSWSC 1235 Newman J	Unlawful and dangerous - assault Drowning Assault - domestic	PG	3y GBB		Nil	Assaulted father on boat then threw body overboard wrongly believing him to be dead - father drowned - assault in response to threats made by father against offender's girlfriend - father violent record, on bail for conspiracy to murder Good character - service in Naval Reserve - early acknowledgment of guilt - genuine remorse - suffering abnormality of mind at time of offence
14.	Kennedy [2000] NSWSC 109 Barr J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Stabbed de facto husband in chest once during confrontation - circumstances of offence unclear but history of extreme and cruel domestic violence - spontaneous offence Genuine remorse – suicidal - violent childhood beaten first by mother then victim
15.	Jans (55) [2000] NSWSC 525 Grove J	Substantial impairment Stabbing - domestic	PG	PSC 6m 4y GBB		Nil	Stabbed wife with kitchen knife - found by police threatening to jump off 12 storey roof - undiagnosed Huntington's Chorea disease caused victim to become irrationally abusive to offender over long period of time - suffered major depressive episode at time of killing Forgiven by 3 children and low risk of re-offending
16.	Sette (31) [2000] NSWSC 648 Barr J	Substantial impairment Child victim Stabbing - domestic	PG	2y suspended for 2y		nil	Female removed 1y son from adoptive parents during access visit - stabbed him and hid body in dam - impulsive killing - significant depressive illness for long period of time and in dissociated state at time of killing Forced into adoption by family - support of family – remorse - rehabilitation

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
17.	Mika Sagato (2000) 116 A Crim R 31 [2000] NSWSC 852 Grove J	Unlawful and dangerous - misc Child victim Drowning	PG	2y suspended sentence		Nil	Husband and wife held down 3y child while mother poured water down his throat - all held genuine religious beliefs about demons and believed child needed to be exorcised Mother of child found mentally ill Intense religious beliefs – remorse – parents to four children
18.	Sutcliffe (25) S McGoldrick (21) L McGoldrick (17) [2000] NSWSC 825 Adams J	Unlawful and dangerous - assault Juvenile offender Assault - general	PG	5y 3m NPP 3y 4y 5m NPP 2y 3m 2y 6m PD			Four offenders involved in pushing large rocks off motorway overpass attempting to strike truck trailers - one rock smashed through windscreen of victim's truck causing death - went to assistance of driver but attempted to conceal involvement in offence S: most culpable - limited intelligence – immature - psychological handicaps - genuine remorse - strict protection - good prospects of rehabilitation S.McG: less than average intelligence – immature – remorse - onerous conditions of bail L.McG: least culpable – immature – remorse
19.	Bateman [2000] NSWSC 867 Barr J	Substantial impairment Assault - domestic	PG	5y GBB		nil	Killed wife of 51y bashing her to death with hammer while asleep - both offender and wife ill – offender suffered major depression after house damaged by hailstones Deep remorse - condition of bond to continue with treatment program
20.	Li [2000] NSWSC 1088 Greg James J	Substantial impairment Child victim	PG	5y GBB		nil	Mother killed young child intending to then kill self – manner of killing not stated Endogenous depression - remorse - retained family support.
21.	Suters (19 at offence – 27 at sentence) [2000] NSWSC 1116 Greg James J	Accessory Assault - general	PG	2y PD		nil	8 years ago involved in burglary at victim's house - victim assaulted and died from heart attack when surprised co-offender inside house - offender waited outside house and acted as lookout - helped remove body Good rehabilitation - assistance - <i>Ellis</i> discount – remorse Co-offender dealt with as accessory after homicide and placed on recog

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
22.	Do [2001] NSWCCA 19	Negligence Shooting - general	VG	MT 18m AT 18m PD	Conviction AD		Spent night in company with victim and friend drinking, smoking heroin and taking rohypnol and playing with victim's shotgun - pointed gun at victim and deliberately pressed after playing with safety catch - thought he had put safety catch back on
23.	Melrose [2001] NSWSC 847 McClellan J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB			Aboriginal woman stabbed partner during violent argument – victim had assaulted offender earlier in evening – long term domestic violence - isolated by move to another town and became depressed Remorseful and severe psychiatric reaction to killing - significant suicide risk
24.	ANG (16) [2001] NSWSC 758 Ireland AJ	Negligence Drowning Juvenile offender	PG	2y suspended sentence		nil	Pushed unconscious body of 31y uncle into river - did so at earlier request of suicidal uncle - uncle suffered depression and intoxicated at time - offender under influence of drugs from drinks spiked without knowledge of offender Well respected youth - good family support - deeply affected by incident - rehabilitation.
25.	Richards (39) [2002] NSWSC 415 Kirby J	Substantial impairment Child victim Poison / drug	PG (25%) Mansl 2 x Att murder	5y GBB (from date of sentence) FT 15m 10d (immediate release)		nil	Suffering delusional disorder focussed on perceived sexual abuse by fathers of children - faced losing custody of children at Family Court hearing - attempted to kill self and three children by carbon monoxide poisoning - only baby died Improvement in mental health - protective custody - remorse
26.	Yeoman (43) [2003] NSWSC 194 Buddin J	Unlawful and dangerous - stabbing Stabbing – domestic	PG	4y GBB		Nil	Stabbed de facto husband of 25 years once in heart - both heavily intoxicated – not fully aware of actions due to effect of intoxication - element of provocation and long history of domestic violence – stabbed victim on previous occasion Prior good character - isolation caused by recent move - grief over recent death of father - effect of imprisonment on 5y old son - genuine remorse - excellent prospects of rehabilitation

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
27.	Dawes [2004] NSWCCA 363	Substantial impairment Assault – domestic Child victim	PG	5y GBB	Crown AD	Nil	Mother suffocated 10y autistic son – suffering major depressive illness – unable to obtain proper assistance or intervention – victim very difficult to manage – verbal and physical abuse by husband – illness and death of family members – step father physically abusing daughter – made serious attempt at suicide Depressive illness - remorse and contrition – evidence of rehabilitation with daughter
28.	Nicol (86) [2005] NSWSC 547 Hulme J	Substantial impairment Assault – domestic	PG	2y NPP 1y Suspended		Nil	Assaulted wife with iron bar and asphyxiated her with plastic bag – intent to kill Elderly couple with many health problems – depression – genuine attempt at suicide
29.	Jukes (20) [2006] NSWSC 1065 Hoeben J [2008] NSWSC 126 Hoeben J	Unlawful and dangerous - stabbing Stabbing - domestic	PG	2y NPP 12m suspended On breach of suspended sentence 2y NPP 12m		Nil	Female – stabbed mother’s boyfriend during confrontation in kitchen – instinctive act – single stab wound – low range culpability Unfortunate background – mother to 5 children – youngest child disabled – immediate remorse – 90d PSC – 2y 6m rigorous reporting Sentence subsequently breached after commission of further offence of BES, failure to comply with reporting and counselling conditions and continued amphetamine addiction – pregnant at time of re-sentence
30.	Gow [2006] NSWDC 78 Berman DCJ	Negligence Poison / drug	PG	18m NPP 12m suspended		Nil	Patient died from drug prescribed by doctor – prescribed wrong form of morphine – failed to properly instruct victim as to taking of drug – failed to write instructions on prescription as required – looked up wrong drug in writing out required amount – tired and under stress Remorse – admitted mistake openly in court – excellent character – caring doctor
31.	R. Sutton (63) M. Sutton (60) [2007] NSWSC 295 Barr J	Substantial impairment Unknown	PG PG	5y GBB 5y GBB		Nil Nil	Parents killed severely disabled 29y son suffering blindness, severe mental retardation and restriction of hearing – required surgery to stop brain infection which would cause temporary deafness and reduce quality of life – victim had difficulty in dealing with changes in life – spontaneous decision out of love for son – both offenders suffering major depressive illness brought on by years of stress and commitment to son – mother administered sedative – father killed victim – cause of death undisclosed - Severe depressive disorder Suicide risk – should not be separated

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
32.	Irvine (20) [2008] NSWCCA 273	Unlawful and dangerous - assault Excessive self defence Assault - general	PG (25%)	3y NPP 2y PD	Crown AD	nil	Number of young people taking part in burnouts on street – victim crashed vehicle and left scene – offender and friend went after victim to tell him to return to scene and await police – victim intoxicated and abusive – offender punched victim in self-defence causing haemorrhage - victim had congenital abnormality causing weakness Strong subjective case – youth – rehabilitation
33.	HA (29) [2008] NSWSC 1368 Rothman J	Negligence Child victim Failure to provide	PG (35% plea and assist)	2y suspended sentence		Nil	Failed to obtain medical care for 4y son – son suffering numerous medical conditions resulting in severe malnutrition – died from pneumonia and kidney infection – need for medical care would have been obvious to parents – medical care declined due to genuine religious beliefs of HA and husband – husband older and dominating figure (although not abusive) – breach of trust - child otherwise well cared for – low level of culpability Mother to ten surviving children – husband died since arrest – subsequent support of family and providing good care for remaining children – remorse – borderline intelligence
34.	AJC (17) (2010) 207 A Crim R 307 [2010] NSWCCA 168	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (40% for plea and assist on appeal)	2y 6m NPP 18m PD	Crown AA 3y NPP 1y 9m PD	nil	Single punch to 20y male at show – been advised by co-accused that victim had tried earlier to fight physically vulnerable youth – followed victim and delivered unexpected punch to head – no provocation or opportunity for self-defence – innocent victim – impulsive attack of immature youth - committed in presence of child under 18y – below mid-range Genuine and deep remorse – voluntarily surrendered to police – assistance in relation to co-accused – publicly named by newspaper On appeal - discount for assistance excessive

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
35.	Mathers [2011] NSWSC 339 Hall J	Substantial impairment Assault - domestic	PG	2y suspended sentence		Nil	Assisted partner to commit suicide - ingestion of amitriptyline tablets and final act of suffocation - long relationship of 22 years – victim suffered pain from spinal condition and expressed wish to die in suicide note – participation would not have been discovered but for offender’s disclosures to police – suffering depressive illness/adjustment disorder - only motive was to assist victim carry out her express intention - no lengthy period of planning or premeditation - culpability at low end of range of sentences for manslaughter - leniency due to disclosures, confession of guilt and plea of guilty
36.	MB (35 at offence – 41 at sentence) [2017] NSWSC 619 Beech-Jones J	Substantial impairment Drowning Young child	PG	4y GBB (little under 2y served in custody)		Nil significant	2010 offence - mother either drowned or failed to retrieve 6m daughter from water – reckless indifference to life – breach of trust – not planned Suffering schizoaffective disorder – become obsessed that daughter had genetic disorder despite testing showing no abnormality – found not fit to plead and sentenced to limiting term for murder – spent just under 2 years in custody before stabilising and entering plea for manslaughter Good personal support – prospects of rehabilitation – extra curial punishment – importance of supervision and reintegration into community
37.	Eckersley (66) [2021] NSWSC 562 Beech-Jones J	Substantial impairment Poison / drug	VG (murder trial – 25% for offer to plead)	2y CCO		Nil	Female killed 92y mother at nursing home by mixing pentobarbitone into her soup and spoon feeding it to her – suffering severe depressive disorder – distressed by mother’s suffering over many years as a result of deterioration in her health – not planned offence – formed intent to kill just prior to committing offence – acted out of love Aggravating factors – use of narcotic drug – in home of victim – breach of trust – victim vulnerable because of age Prior good character – good prospects of rehabilitation – remorse

Last Updated: May 2021

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