

Manslaughter Assault - General

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	Cotton NSW SC Hunt J 28.6.1990	Provocation Assault – general Accessory Juvenile offender	VG	MT 2y AT 18m			Female - assaulted male victim with de facto - could not determine which blows caused death - victim had verbally insulted offender Intellectual disability and limited insight
2.	French (16) NSW SC Wood J 2.10.1990 JPL (16) NSWCCA 5.10.1994 J (16) NSW CCA 5.12.1992 Young NSW SC B-Parker J 15.4.1991	Unlawful and dangerous - assault Assault – general Juvenile offenders Accessory	PG PG PG VG (at murder trial)	MT 4y 6m AT 2y (assistance) MT 7y AT 2y MT 5y 6m AT 2y 6m (assistance) MT 5y AT 3y (juvenile detention until 21y)	AA MT 6y AT 3y	priors and tragic upbringing nil nil nil	8 young people involved in assault - phoned number from toilet wall to arrange meeting with homosexual victim, then bashed him to death F – involved in assault JPL – took part in assault but intended only to bash and rob J – involved in attack Y – did not physically participate in attack – intended less serious harm - completed HSC and some employment - emotionally immature – remorseful - low risk of reoffending. Three offenders convicted of murder - <i>Howard & Ors</i> (1992) 29 NSWLR 242

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3.	Dodd (1991) 57 A Crim R 349 NSWCCA	Unlawful and dangerous - assault Assault – general	PG	3y PD	Crown AA FT 3y		Strangled victim after she refused sex - voluntary disclosure of guilt to otherwise unsolved crime after 10 years - had sex with woman's body - affected by drugs
4.	Fryer NSWCCA 17.3.1992	Diminished Responsibility Assault - general	PG Manslaughter Robbery Assault Arson	MT 14y AT 10y 7y 7y 'light sentence' (all concurrent)	AD		Fatally bashed one man and assaulted four other victims with two co offenders during 'rumbles' - planned to attract publicity Intellectual deficits - difficulty maintaining independent life
5.	McGrath (19) NSWSC McInerney J 14.5.1993	Unlawful and dangerous – assault Assault - general	PG	MT 3y AT 2y		long record – breached bail	Intoxicated male assaulted victim with female co offender - kicked victim while on the ground - believed victim had made sexual advances to female Alcohol problem and some degree of impairment – Aboriginal – contrition
6.	Clements (18) NSWCCA 8.6.1993	Diminished responsibility Assault - general	PG	MT 7y 6m AT 9y 6m	AD		Kicked and bashed homeless old man to death with co-offender then torched body Paranoid schizophrenic with mental disabilities
7.	Jacky NSWSC Campbell J 10.6.1993	Provocation Assault – general	PG	MT 2y 6m AT 2y 6m		lengthy	Intoxicated - Aboriginal male woke to find himself being homosexually assaulted by victim
8.	Cooper NSWSC Studdert J 25.6.1993	Unlawful and dangerous – assault Assault - general	PG	MT 5y AT 4y		Priors – breached bond	Unprovoked attack on stranger who answered door - struck victim to the ground and stomped on head – intoxicated
9.	Brown NSWCCA 13.7.1993	Unlawful and dangerous – assault Assault - general	PG	MT 6y AT 3y	AD	nil	With co offender bashed victim who was walking home from party with wife - brutal and senseless killing Samoan – intoxicated

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10.	Chapple NSWCCA 14.9.1993	Unlawful and dangerous – assault Assault - general	PG	MT 6y AT 3y	AD	bail	Assaulted victim with co offenders having been told victim slept with his wife - failed to obtain medical assistance
11.	Dixon (under 17) Dunn (under 17) NSWSC Loveday J 18.11.1994	Unlawful and dangerous - assault Assault – general Juvenile offender	PG Mansl Robbery Assault	MT 5y AT 4y 6m MT 6y AT 4y 6m		no priors serious record	Intoxicated Aboriginal males fatally assaulted 69y during robbery - assaulted second victim with broken bottle and stake Both offenders had alcohol addiction
12.	ALH NSWSC Dunford J 26.5.1995	Unlawful and dangerous - assault Assault – general Juvenile offender	PG	MT 3y 6m AT 4y Detention		juvenile convictions	Aboriginal juvenile bashed victim while in company, suspecting him of stealing - hard punch to head caused death Intellectually disabled - contrite
13.	Dunn (19) NSWSC Ireland J 21.9.1995 NSWCCA 28.10.1997	Provocation Assault – general	VG	MT 7y AT 4y	AA (to make technical corrections to date)	not serious	Met stranger on cycleway late at night - physical altercation resulted in death - homosexual provocation - returned to scene to either inflict further violence or ensure that victim was dead
14.	Vella (33) NSWCCA 15.12.1995	Provocation Assault – general	VG	MT 10y AT 4y	AD	minor	Attacked by victim with iron bar without warning or provocation - during ensuing fight overpowered victim and assaulted him with bar - disposed of body without knowing if dead Below average intelligence
15.	Grenenger (22) [1999] NSWSC 380 Sully J	Unlawful and dangerous - assault Fight - assault Assault - general	VG	MT 18m AT 18m		nil	Struck victim with bar stool during pub fight Good character and remorse

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16.	Nguyen [1999] NSWSC 592 McInerney J [2000] NSWCCA 45	Unlawful and dangerous - assault Fight - assault Assault – general Accessory	PG	MT 3y AT 1y (PSC 2y)	AD	nil	Group attack on victim at dance hall following dispute - hit victim with baseball bat - unprovoked assault - part of common enterprise to assault and attack victim Good character and family support
17.	Khouzame (19) [1999] NSWSC 979 Grove J [2000] NSWCCA 505	Unlawful and dangerous - assault Fight - assault Assault - general	VG Mansl AOABH	MT 3y AT 2y FT 3m (concurrent)	AD	nil	Struck another teenager in street with block of wood - part of fight between Lebanese and Turkish groups Good character - close and supportive family - good prospects of rehabilitation
18.	TJP (16) [1999] NSWCCA 408	Unlawful and dangerous - assault Assault – general Juvenile offender	PG	MT 2y 11m AT 3y (PSC 1m)	AD	assault, robbery - on recog	Aboriginal female bashed and robbed 67y male with two co offenders Alcohol and cannabis user since 11y
19.	Risteski (22) [1999] NSWSC 1248 Dunford J	Unlawful and dangerous - assault Fight - assault Assault – general	PG	MT 3y 6m AT 2y		minor record reflecting alcohol problem	Killed English tourist with one punch to back of head during brawl between friends and English tourists after watching soccer match on TV - attempted to punch and kick deceased while on ground - intoxicated Good character - supportive friends and family - excellent prospects of rehabilitation
20.	Duthie (35) [1999] NSWSC 1224 Newman J	Diminished responsibility Assault – general	PG	MT 5y AT 3y		long criminal record	Strangled friend/cell mate in suicide pact - both prisoners on remand and intended to commit suicide – euthanasia Suffering chronic schizophrenia - hepatitis C
21.	Hyatt (22) [2000] NSWSC 774 Barr J	Unlawful and dangerous - assault Assault - general	VG	5y NPP 2y		nil	After minor confrontations with supervisor at work became concerned about security of employment - approached supervisor and on spur of moment struck him on head with wood - no intent to do really serious harm Completely out of character - lost temper as result of intense anxiety - remorse

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22.	Sandness (32) [2000] NSWSC 821 Dunford J (Sandnes) [2001] NSWCCA 385	Unlawful and dangerous - assault Assault - general	PG	11y NPP 8y 6m	AD	Minor - BES and assault	Went with girlfriend to home of her 80y frail grandfather to steal money for heroin for both of them - assaulted victim with brick and punched him in face Some attempts made at rehabilitation
23.	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
24.	Bowtell (17 at offence - 29 at re-sentence) [2000] NSWSC 803 Hidden J	Diminished responsibility Assault – general Juvenile offender	PG	Life Re-determination 21y NPP 15y (earliest release date 23.9.2003)		on bail for AR at time of offence	Redetermination of life sentence (1988) dragged 81y female victim into nearby yard - bashed her to death, and brutally sexually assaulted body - left naked body in bin After initial struggle in jail marked improvement in behaviour - diagnosed with ADD and good rehabilitation - genuine remorse
25.	Graham (20) [2000] NSWSC 1033 Whealy J	Unlawful and dangerous - assault Assault – general	VG (at murder trial)	5y NPP 3y		nil	Became involved in homosexual encounter with stranger in park - pursued by victim when changed mind and attempted to disengage - strangled victim in headlock acting in unreasonable fear for safety Youth - good character - suffering depression - isolated incident
26.	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

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27.	Bellamy (30) [2000] NSWSC 1217 Wood CJ at CL	Unlawful and dangerous - assault Assault - general	PG Mansl AR Agg BES Sched: Four offences	5y 5y 4y <u>Total:</u> 10y NPP 7y 6m		very lengthy - offences committed while on parole	Bashed and kicked to death 57y male in victim's home after victim made homosexual advances - previously raped in gaol - assaulted and robbed victim's 88y mother before leaving house - broke into home of victim one week later and stole property - under influence of Normison Heroin addict - <i>Ellis</i> discount in relation to manslaughter - remorse
28.	Catalano (18) [2000] NSWSC 1248 James J	Assault – general Unlawful and dangerous - assault	PG	7y 6m NPP 4y 6m		Minor	Bashed homeless and frail 52y male with wooden slat from nearby park bench - unpremeditated and impulsive act Judgement impaired by alcohol and cannabis - violent nature of offence out of character – contrite - good prospects of rehabilitation.
29.	Greenhalgh [2001] NSWSC 272 Adams J [2001] NSWCCA 437	Assault – general Unlawful and dangerous - assault	PG (25%)	8y NPP 4y 6m	AA 6y 9m NPP 4y 6m	criminal record including rob and assault	Punched intoxicated victim during prolonged drinking session – offender was aggressor - victim died from subdural haemorrhage 6 hours later – offender did not realise he had inflicted lethal blow Alcoholic - no premeditation.
30.	Adamson (19) [2001] NSWSC 499 Howie J (2002) 132 A Crim R 511 [2002] NSWCCA 349	Unlawful and dangerous - assault Assault – general	PG (10%) Mansl 2 x s.61J	11y NPP 7y 6m 8y <u>Total:</u> 14y NPP 10y 6m	AD	malicious wounding	During party had vaginal and anal intercourse with victim knowing she was not consenting - deliberately placed hand over victim's mouth and nose to prevent her calling out, causing asphyxiation Raised alarm and attempted to resuscitate victim
31.	Sotheren (27) [2001] NSWSC 214 Dowd J [2001] NSWCCA 425	Unlawful and dangerous - assault Assault - general	PG Mansl 5 x Agg Rob (substantial discount)	5y NPP 2y 6m 2y 6m <u>Total:</u> 7y NPP 4y 6m	Crown AA 10y NPP 6y 3y - 4y <u>Total:</u> 12y NPP 8y	lengthy record including violence - on parole	Multiple robberies - each victim severely beaten, one dying three days later - all robberies committed over one night Heavy user of amphetamines - seriously deprived and abusive childhood - ward of state - psychiatric and behavioural problems - stabbed twice while in custody - suffers claustrophobia - remorse - aboriginal - support of family

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32.	<p>Clarke [2001] NSWSC 703 McClellan J</p> <p>Marsh [2001] NSWSC 1109 McClellan J</p> <p>[2002] NSWCCA 151</p>	<p>Unlawful and dangerous - assault</p> <p>Assault – general</p> <p>Motor vehicle</p>	<p>PG (25%) Mansl</p> <p>Carried in conveyance</p> <p>PG (20%) Mansl</p> <p>Rob in Co</p> <p>Take & drive</p>	<p>5y NPP 3y 6m</p> <p>FT 6m (concurrent)</p> <p>10y 4m NPP 7y 9m</p> <p>FT 6y</p> <p>FT 14m (both concurrent)</p>	Crown AD AD	<p>Lengthy</p> <p>Lengthy</p>	<p>Offenders stole car, grabbed victim's handbag and drove off - victim tried to get handbag back grabbing onto offender - M punched victim who fell and hit head on rear tyre - died of head injuries. C - surrendered to police - considerable remorse - high level of assistance to police - protective custody M - denied involvement - plea out of acknowledgment of evidence of co-offender - higher culpability than co-offender</p>
33.	<p>Young (18) [2001] NSWSC 942 Taylor AJ</p> <p>(2002) 136 A Crim R 437 [2002] NSWCCA 322</p>	<p>Unlawful and dangerous - assault</p> <p>Assault - general</p>	<p>PG (35% combined discount on appeal)</p>	<p>6y NPP 4y</p>	Crown AD AA 5y 3m NPP 3y 3m	<p>criminal history - no significant violence</p>	<p>Kicked and punched male victim in attempt to rob on public street late at night - attack did not cause serious injury but victim suffered from bad heart and high blood pressure. Alcoholic - assistance – protection - partial failure of undertaking to give evidence but sentence excessive</p>
34.	<p>Masson (23) [2001] NSWSC 1037 Howie J</p>	<p>Unlawful and dangerous - assault</p> <p>Assault – general</p> <p>Accessory</p>	<p>VG (at murder trial)</p> <p>Rob with wounding</p> <p>Larceny</p>	<p>7y 6m NPP 4y 6m</p> <p>FT 3y 6m</p> <p>FT 18m (all concurrent)</p>		<p>nil</p>	<p>Went with co-offender to house of 75y female acquaintance to borrow money – co-offender unexpectedly suffocated – continued involvement in robbery out of fear - contemplated unlawful and dangerous act by co-offender during robbery - aware that co-offender had knife Supportive family Offender dealt with for murder</p>

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35.	Willoughby (26) [2001] NSWSC 1015 Greg James J	Unlawful and dangerous - assault Assault - general	PG (15%)	6y 9m NPP 3y 9m		nil	Genuine, although unreasonable belief that male outside offender's flat had stolen from him - chased him outside flats and administered severe beating - included stomping on victim - did not believe he had seriously injured victim Suffering complex and difficult psychological problems in relation to family, de facto and daughter - effects of severe emotional stress at time of offence resulted in him taking marijuana and LSD - in need of extensive counselling and assistance - degree of contrition - serious back condition - 1y 11m in conditional custody and 11m PSC
36.	Clissold [2002] NSWSC 429 Greg James J [2002] NSWCCA 356	Accessory Assault – general Unlawful and dangerous - assault	PG (20%) Mansl AOABH	14y NPP 8y FT 4y <u>Total:</u> 16y NPP 10y	Crown AD	record includes assaults	Sergeant of arms of Biekie gang involved in assault on male inflicting club discipline - victim taken and savagely beaten to death - offender not present at time of fatal assault – accessory before the fact - assaulted and threatened home owner with knife in order to abduct victim - culpability high Good character evidence - low intelligence
37.	Marrah (36) [2002] NSWSC 862 Levine J	Unlawful and dangerous - assault Assault - general	PG (20%)	6y 5m NPP 4y 9m		assaults	Shearer killed work associate - assaulted victim during argument about money - element of pre-meditation - smaller victim - left victim on side of street unaware of fatality of assault - middle to upper range for assault of this type Good prospects of rehabilitation
38.	CK (16) [2002] NSWSC 942 Studdert J [2004] NSWCCA 116	Unlawful and dangerous - assault Juvenile offender Assault – general Fight - assault	PG (25%)	7y 6m NPP 4y	AD	nil	Present during series of confrontations between Asian and Australian youths throughout evening of killing - threw solid metal bar at car being driven by 17y male - bar penetrated skull of victim Born to Korean parents - contrition - uncharacteristic behaviour - hardship to family

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39.	Styman (24) [2003] NSWSC 93 Barr J Co-offenders: STYMAN TABER	Unlawful and dangerous - assault Criminal negligence Assault - general	VG (at murder trial) PG Agg BE and rob	14y NPP 9y 8y <u>Total:</u> 15y NPP 10y		BES offences	With 2 co-offenders broke into house of elderly female living alone - victim tied and gagged and left in house - stole cash and property – made unsuccessful 000 call - victim died 10-12 days later - lesser participant - not aware victim not rescued Cruel and violent childhood - genuine remorse - assistance to police - truthful at trial - evidence of rehabilitation - protective custody
40.	O'Hare (23) [2003] NSWSC 652 Whealy J	Unlawful and dangerous - assault Assault – general	PG (20%) Sched: Mal damage	6y NPP 3y 6m		Minor	Offender intoxicated and angry when encountered male stranger on street – words exchanged but no provocation – victim hit once to side of face and fell on pavement Verbal and physical abuse from step father – long history of alcohol addiction – good character – reasonable prospects of rehabilitation - remorse
41.	Maclurcan (48) [2003] NSWSC 799 Buddin J	Unlawful and dangerous - assault Assault – general	PG	3y NPP 17m		Minor	Struck male acquaintance once to head with fist during argument – victim's head struck concrete – offender in manic phase of bipolar disorder Excellent character evidence – good prospects of rehabilitation
42.	Avakian (21) [2003] NSWSC 1042 Whealy J Co-Accused: O'CONNOR	Unlawful and dangerous – assault Assault – general Accessory	PG (15%)	5y 6m NPP 3y 6m		Breached GBB and PD	Part of group of males who approached another group in street late at night – threatened victim and pretended mobile phone was gun – victim assaulted by all members of group – died from stab wound but unclear who stabbed victim so not taken into account – instigator of incident Difficult childhood - early drug addiction – reasonable prospects of rehabilitation
43.	O'Connor (25) [2003] NSWSC 1041 Whealy J Co-Accused: AVAKIAN	Unlawful and dangerous – assault Assault – general Accessory	PG (15%)	5y 2m NPP 3y 2m		Record	Part of group of males who approached another group in street late at night – threatened victim and pretended mobile phone was gun – victim assaulted by all members of group – died from stab wound but unclear who stabbed victim so not taken into account Difficult childhood – remorse – reasonable prospects of rehabilitation

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44.	Kerr (17) [2004] NSWSC 75 Kirby J RIK [2004] NSWCCA 282	Unlawful and dangerous - assault Assault – general Juvenile offender	VG	3y NPP 12m	Conviction AD	Nil	Alighted from train and approached male sitting alone on platform in aggressive manner and swearing – victim jumped onto tracks and struck by train Prior good character – intoxicated – family support – excellent prospects of rehabilitation
45.	Kwon [2004] NSWSC 146 Dowd J [2004] NSWCCA 456	Unlawful and dangerous – assault Assault - general	PG (33% total discount)	2y 8m NPP 1y 8m	Crown AD	Nil	Sustained assault on male employee during night out – intoxicated Korean - prior good character – lost business – family to return to Korea
46.	Mawson (18) Robins (18) JWC (16) [2004] NSWSC 561 Buddin J	Assault – general Juvenile offender (JWC) Accessory	PG Mansl Agg Rob PG Mansl Agg Rob PG Mansl Agg Rob	6y 6m NPP 4y FT 2y 6m <u>Total:</u> 7y 3m NPP 4y 9m 6y 6m NPP 4y FT 2y 6m <u>Total:</u> 7y 3m NPP 4y 9m 5y 6m NPP 3y 1m 26d FT 2y <u>Total:</u> 6y 6m NPP 4y 1m 26d		Minor Nil Nil	Fatal assault by group of intoxicated youths on male stranger in street at night - second male assaulted and money stolen from wallet – intoxication – spontaneous Each offender suffered difficult childhood – depression - low intelligence - alcohol abuse - some prospects of rehabilitation - remorse

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47.	Rugari (18) [2004] NSWSC 1126 Barr J	Unlawful and dangerous - assault Assault – general	PG Agg rob Sched Possess drugs	7y NPP 4y FT 4y <u>Total:</u> 8y NPP 5y		Record for violence	Severe and unprovoked assault on male acquaintance – concerned about sexual intentions of victim towards 12y female – refused to return car keys until phone and gold chain handed over – victim subsequently died from head injuries when he returned home– no intent to cause GBH Difficult and violent childhood – slim prospects of rehabilitation – personality disorders – ADHD – partially deaf – no remorse
48.	Tillman (31) [2004] NSWSC 794 Dunford J	Assault – general	PG (25%)	6y NPP 3y 3m			Physical argument initiated by victim – gouged victim’s eye and kicked him in head twice – subsequent death caused by blood clot No agreement for basis of manslaughter but not needed Surrendered to police – genuine remorse
49.	Hampton (18) [2004] NSWSC 1215 Bell J	Accessory Assault – general	PG (20%) Agg enter dwelling with intent to assault	6y 4m NPP 3y 4m FT 2y 8m <u>Total:</u> 7y 4m NPP 4y 4m		Record including assault	3 men forced entry into home of drug supplier – victim found with large skull fracture – subsequently group forced entry into home of second male and assaulted occupant Aboriginal with difficult childhood – intoxicated
50.	Bugmy (20) NMB (15) [2005] NSWSC 561 Grove J	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (25%) PG (25%) Sched Larceny	7y 6m NPP 5y 6y NPP 4y		Minimal; breach of GBB Some; breach of conditional liberty	After many hours of drinking, offenders kicked victim to death – possible response to victim swearing at offender’s aunt B – Aboriginal – stable relationship with young child – alcoholic and domestic violence background – recent death of father – helped care for handicapped sister – average intelligence – good prospects for rehabilitation NMB – Aboriginal – some rehabilitation and remorse – drug/alcohol bender in days before offence – petrol sniffing leading to daily alcohol/marijuana use – dysfunctional alcohol and domestic violence background – only learned to read in custody

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51.	WKD (19) MJN (15) [2005] NSWSC 694 Mathews AJ	Excessive self-defence (WKD) Assault – general Juvenile offender (MJN) Accessory (MJN)	VG (at murder trial) PG Steal from dwelling VG (at murder trial) PG Steal from dwelling	12y NPP 8y FT 1y 6m <u>Total:</u> 13y 6m NPP 9y 6y NPP 2y 6m FT 1y <u>Total:</u> 7y NPP 3y 6m		Included assault Nil relevant	Cousins assaulted male acquaintance in victim's home with iron bar and beer bottle – stole property – attended home with intent to assault – retaliation for earlier confrontation WKD - primary offender – inflicted majority of injuries – excessive self-defence - Aboriginal – 2 children from long term relationship MJN –acted under pre-existing criminal enterprise to assault – under influence of older cousin – Aboriginal - remorse
52.	Taber (27) Styman (37) [2005] NSWSC 1292 Studdert J (2007) 170 A Crim R 427 [2007] NSWCCA 116 Co-offender: STYMAN	Unlawful and dangerous - assault Criminal negligence Assault - general	VG Mansl Agg rob VG Mansl Agg rob	18y NPP 13y 6m 10y <u>Total</u> 19y NPP 14y 6m 18y NPP 13y 6m 10y <u>Total</u> 19y NPP 14y 6m	AD	Nil relevant Of little significance	Three offenders broke into home of 70y female – victim tied up, gagged and left with pillowcase over head – stole \$23,300 - 000 call not acted upon – victim died after 9 days – carefully planned offence – “most grave crime of manslaughter” Protective custody – no remorse – low prospects of rehabilitation

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55.	King (36) Bugmy (33) CJ (16) [2006] NSWSC 161 Buddin J	Fight - assault Assault - general Accessory Juvenile offender	PG (20%)	6y NPP 3y 8m 7y 6m NPP 4y 4m 4y 4m NPP 2y 8m		Minor Extensive including violence – breached parole nil	History of animosity between two aboriginal family groups in small town – male associated with one family threatened by group associated with second family including offenders – victim assaulted by offenders armed with rocks and known weapons – fatal assault to head K – stable family life – good conduct in custody despite onerous conditions B – tragic background – partially blind – alcohol problems CJ – difficult childhood – good use of time in custody – low cognitive skill – good character
56.	Clay (19) Lonsdale (24) [2006] NSWSC 1220 Buddin J	Unlawful and dangerous - assault Assault – general Accessory	PG PG	5y NPP 3y 6y 8m NPP 4y		Minor traffic Minor drug	Male assaulted on front lawn of house by group of intoxicated males – C punched victim to head at commencement of attack then subsequently watched assault – L assaulted victim with mattock handle and kicked and punched victim - victim refused medical attention and later died of ruptured spleen caused by assault with mattock handle C – lesser offender – out of character – remorse L – psychotic illness
57.	Heatley [2006] NSWSC 1199 Whealy J [2008] NSWCCA 226	Substantial impairment Assault - general	PG (25%) Mansl s.97(2)	14y NPP 8y FT 4y Total: 18y NPP 12y	AD	Extensive – previously acquitted for AR on basis of mental illness	Prisoner kicked and punched to death cellmate in locked cell – suffering chronic psychotic disorder – unable to control urges – criminality of reasonably high order Also sentenced for bank robbery – armed with shortened firearm – voluntary disclosure of unknown guilt
58.	Esposito (33) [2006] NSWSC 1454 Latham J	Assault – general Accessory Unlawful and dangerous - assault	VG (at murder trial - 15% for offer)	6y 10m NPP 4y		Predominantly property offences	Present when co-offender fatally assaulted male victim – assault in retaliation for threats made by victim to offender's de facto wife and children – assisted in dumping body – party to agreement to assault victim aware co-offender's qualified in martial arts Tragic childhood – heroin abuse – positive de facto relationship

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59.	KT (16) [2007] NSWSC 83 Johnson J (2008) 182 A Crim R 571 [2008] NSWCCA 51	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (25%)	6y NPP 4y	AD	Nil	Driving with friend throwing eggs at strangers on street – victim became agitated at conduct and threw can at car – confrontation resulted in single fatal punch to head – victim small Sudanese man with limited English Borderline intellectual ability – remorse
60.	LAL (14) PN (14) [2007] NSWSC 445 McClellan CJ at CL	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (15%) Sched: LMV Steal mobile phone	6y NPP 3y 6m 6y NPP 3y 6m		Nil Nil	Assaulted taxi driver using moderate force – victim suffering heart disease and died from heart attack – opportunistic offence – under influence of alcohol and marijuana Female offenders - genuine remorse – Islander parentage – violent households – need for continued supervision – evidence of progress in rehabilitation – immature and intellectual deficits – early exposure to alcohol abuse - PN suffering psychiatric problems
61.	Charman (20) [2007] NSWSC 1177 Hulme J Co-offenders: HORAN BOXX	Unlawful and dangerous - assault Assault – general Accessory	PG (40% plea and assist)	6y NPP 4y		Minor – breached bond	Willingly participated in break and enter – driver of car waiting outside house – intellectually disabled occupant fatally assaulted by co-offenders using torch Voluntarily surrendered to police – assistance – good work record – remorse Error by sentencing judge as to starting date meant offender gained benefit of three months on bail – sentencing judge declined to correct error
62.	Wheatley (45) [2007] NSWSC 1182 Bell J	Unlawful and dangerous - assault Assault - general	PG (25%)	3y 9m NPP 2y		Minor	Pushed 83y male stranger onto street – hit by oncoming traffic – no intent to hurt or push into traffic – loutish behaviour – ‘spontaneous outburst of low-level violence which had catastrophic consequences’ – intoxicated – angered by earlier unrelated confrontation with male Suffering chronic schizophrenic illness
63.	Bashford (24) [2007] NSWSC 1380 Rothman J	Unlawful and dangerous - assault Assault - general	PG (25%)	5y 3m NPP 3y 6m		Breached conditional liberty for non-violent offences – priors for violence	Intoxicated male making out of character and offensive comments outside hotel – single punch to head causing death – response to offensive comment – spontaneous act Voluntarily attended police station – subject to significant personal stress at time of offence – depression – good character – traumatic childhood – evidence of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
64.	Taiseni (30)	Unlawful and dangerous - assault	PG (20%) Manslaughter	4y NPP 2y		Summary - assaults and weapon offences	L involved in argument over use of pool table with male victim – ejected from hotel – returned with co-offenders and attacked victim – M swung bar stool at victim and fatally struck hotel employee in head – first victim also kicked in head L – principal role – Tongan – married- - genuine remorse – moderate prospects of rehabilitation M – equal culpability to L – Tongan – married with 2 children – genuine remorse – some prospects of rehabilitation Taiseni - lesser culpability – presence only – Tongan – married with two children – genuine remorse – good prospects of rehabilitation Tuifua – lesser culpability – presence only – Tongan – married with four children – genuine remorse – excellent prospects of rehabilitation
		Assault – general	Maliciously inflict GBH	FT 2y 5m			
		Accessory	Sched: Supply heroin	<u>Total:</u> 5y NPP 3y			
	Motuapuaka (26)		PG (20%) Manslaughter	5y 7m NPP 3y		Minor	
			Maliciously inflict GBH	FT 4y			
			<u>Total:</u> 7y 7m NPP 5y				
	Leota (29)		PG (10%) Manslaughter	6y 4m NPP 3y 6m		Minor	
			Maliciously inflict GBH	FT 4y			
			Sched: Supply heroin	<u>Total:</u> 8y 4m NPP 5y 6m			
	Tuifua (33)		PG (10%) Manslaughter	3y 7m NPP 2y 2m		Nil	
	[2007] NSWSC 1090 Latham J		Maliciously inflict GBH	FT 2y 8m			
			<u>Total:</u> 4y 7m NPP 2y 2m				

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
65.	CK (15) TS (15) [2007] NSWSC 1424 Latham J	Unlawful and dangerous - assault Assault – general Juvenile offender Victim under 18y	PG (25%) PG (25%)	6y NPP 4y 6y NPP 3y 6m		Priors – breached bond nil	17y walking down main street of town late at night – headbutted by CK – punched to head by TS – unprovoked attack – died of subarachnoid haemorrhage Drug and alcohol abuse – difficult childhoods
66.	Smith (22) [2008] NSWSC 201 Hulme J	Unlawful and dangerous – assault Assault - general	PG (25%)	3y 9m NPP 2y 6m		Minor	Waiting at taxi stand after Christmas function – punched passing stranger once – victim struck head on concrete – no provocation – intoxicated Evidence of excellent rehabilitation – good prospects - remorse
67.	APT (17) [2008] NSWSC 302 Studdert AJ [2009] NSWCCA 230	Unlawful and dangerous Assault – general Juvenile offender	VG (at murder trial)	8y NPP 5y 6m	AD	Nil	Involved in brutal assault on young male outside service station in early hours of morning – lesser offender – kicked victim on ground Remorse – good prospects of rehabilitation
68.	Mitchell (24) [2008] NSWSC 320 Howie J	Provocation Assault - general	PG (17.5%) Mansl Arson	8y 3m NPP 4y 6m FT 2y <u>Total:</u> 9y NPP 5y 3m		Primarily dishonesty and driving offences	Assaulted male acquaintance with hammer in victim's apartment – response to being sexually assaulted – set fire to door of apartment History of mental health problems – drug and alcohol problems - remorse
69.	Hopley (35) [2008] NSWCCA 105	Unlawful and dangerous - assault Fight – assault Assault - general	VG	5y NPP 3y	AD	Priors – less serious	Punched male stranger twice in altercation outside nightclub – altercation between two groups began inside nightclub – spontaneous response to violence initiated by third person – acted in anger not self defence Sole parent to 13y son - remorse

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
70.	Horan (20) [2008] NSWSC 990 Studdert AJ Co-offenders: BOXX CHARMAN	Unlawful and dangerous - assault Assault – general Accessory	VG (at murder trial – 40% offer to plead and assist) Sched: 3 x firearms	6y NPP 4y		Nil	Party to agreement to rob victim at home to obtain money and documents – visited residence earlier posing as security guard – accompanied co-offender to house at night and stood watch – victim fatally assaulted by co-offender with torch – motivated by financial gain Remorse – favourable prospects of rehabilitation – evidence against co-offender – onerous custodial condition
71.	Carroll (20) (2008) 188 A Crim R 253 [2008] NSWCCA 218 [2009] HCA 13 (2010) 200 A Crim R 284 [2010] NSWCCA 55	Unlawful and dangerous - assault Assault - general	PG	3y NPP 18m PD	Crown AA 3y NPP 18m AA Matter remitted to CCA Crown AA 18m suspended sentence + PSC 5m PD / 7m full time	Nil	Altercation outside hotel between victim and offender's group of friends – victim made idle threat to kill – offender head butted victim who fell back onto road – died ten days later – victim heavily intoxicated Excellent prior character – depression resulting from offence – genuine understanding of consequences of act – excellent prospects of rehabilitation On appeal: full-time imprisonment required but in light of pre-sentence custody and exceptional circumstances imprisonment suspended
72.	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

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
73.	Katic (29) [2008] NSWSC 1330 Hidden J	Excessive self defence Assault - general	VG (at murder trial – 10% for offer) PG Agg AR	9y NPP 5y 6m FT 4y <u>Total:</u> 11y NPP 7y 6m		Nil significant	Robbed newsagency with unloaded air rifle – co-offender standing lookout – pursued by proprietor – fatally struck proprietor with wooden fence paling Troubled background – substance abuse – remorse – prospects of rehabilitation
74.	Munter (36) [2009] NSWSC 158 Howie J	Unlawful and dangerous - assault Assault - general	PG	3y 3m NPP 18m		Minor driving offence	Abused 66y male stranger watering lawn – believed breaching water restrictions – heated exchange – punched victim to head, pushed victim over and kicked in mid-section – minor assault – victim died of cardiac arrest – diseased heart exacerbated by assault True remorse – suffering chronic permanent back pain at time of offence – pain to affect custodial conditions
75.	Jeffrey (40s) Mealey (34) [2009] NSWSC 202 Fullerton J	Unlawful and dangerous - assault Assault – general Accessory (Mealey)	PG (25%) Manslaughter Rob in Co PG (25%) Manslaughter Rob in Co	6y NPP 3y 6m 2y 6m (concurrent) 4y NPP 2y 2m FT 18m (concurrent)		Record including assault in similar circum – breached bond dishonesty	M knocked on door of unit of neighbour to J – J forced open door knocking 87y male occupant to ground – victim robbed of money and left injured in unit behind locked door – no attempt to obtain assistance - hospitalised for fractured hip and died of complications ten days later – J dominant offender – intent to rob for money to buy drugs – M sentenced as aider and abettor and failure to provide assistance – victim vulnerable and deliberately chosen by J J – female - difficult marriage resulting in drug addiction – some prospects of rehabilitation in view of family support M – female - aboriginal with difficult childhood including sexual abuse – abusive relationship with boyfriend – drug addiction – low intelligence – homeless – influenced by co-offender – recent attempt at rehabilitation makes positive prospects of rehabilitation - remorse
76.	Boxx (19) [2009] NSWSC 298 Studdert AJ Co-offenders: HORAN CHARMAN	Unlawful and dangerous - assault Assault – general Accessory	VG (at murder trial)	10y NPP 7y 6m		Nil priors – subsequent drug offence	Party to agreement to rob victim at home to obtain money and documents – accompanied Horan into house armed with torch – victim fatally assaulted with torch – unclear who inflicted blows – joined plan late – victim had mild degree of mental handicap Fair prospects of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
77.	DGP (16) PB (16) [2009] NSWSC 1154 Hall J [2010] NSWSC 1408 Hall J Co-offender: CW	Unlawful and dangerous Assault – general Juvenile offender Accessory	PG (20%) PG (20%)	8y NPP 5y 7y 11m 20d NPP 4y 11m 20d (sentence adjusted) 5y NPP 3y		Nil Limited history	Joint criminal enterprise – three young males kicked and assaulted intoxicated male walking across oval – mistakenly believed victim had called out abuse – spontaneous attack with no pre-planning – kicked to head by co-offender – PB initiated verbal attack but no actual physical attack and therefore lesser culpability – seriousness of offence towards high end of range DGP – prior good character – intoxicated – low intelligence – remorse – good prospects of rehabilitation – aboriginal descent – sentence adjusted to allow total time in detention centre PB – remorse – rehabilitation – good prospects of rehabilitation
78.	CW (16) [2009] NSWSC 1155 Hall J [2011] NSWCCA 45 Co-Offenders: DGP PB	Unlawful and dangerous - assault Assault – general Juvenile offender Accessory	VG (at murder trial)	9y NPP 6y	AD	Nil	Joint criminal enterprise – group of three young males kicked and assaulted male on oval – offender kicked victim on ground – spontaneous attack with no pre-planning – unprovoked attack Prior good character

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
79.	Smith (22) [2009] NSWSC 1183 Mathews AJ [2011] NSWCCA 110	Excessive self defence Assault - general	PG (10%)	6y 9m NPP 4y 6m	AD	minor	Offender and friends pursued through streets at night by victim wielding two knives and making threats – victim indicated surrender when threatened by male holding tree branch – offender took branch and struck victim several times with branch – kicked victim to head on ground – judgment impaired by intoxication – injury to hand – lower range of culpability for manslaughter by excessive self defence Cannabis abuse – prior good character – good prospects of rehabilitation
80.	Benbow (29) [2009] NSWSC 1472 R A Hulme J	Unlawful and dangerous - assault Assault - general	PG (17%) Manslaughter AOABH	7y 6m NPP 4y 6m FT 3m (concurrent)		Prior convictions including violence – breached bail	After drinking with two friends fell asleep on bed – when prodded awake with cricket bat grabbed bat and assaulted one male with bat in sustained attack – struck second male with bat – claimed no memory due to drinking and serapax – spontaneous, unreasonable and irrational response Longstanding substance abuse
81.	AA (17) AC (17) SS (17) [2010] NSWSC 495 Kirby J (AA) [2010] NSWSC 703 Kirby J	Accessory Assault – general Juvenile offender	VG (at murder trial – 10% for offer) VG (at murder trial – 25% for offer) VG (at murder trial – 15% for offer)	6y 3m NPP 3y 7m 5y 3m NPP 3y 5y 11m NPP 3y 4m		Nil Nil Nil	Victim fatally assaulted by group of youths – retaliation for victim's abuse of ex-partner known to AC and SS – after discussion at fast food restaurant weapons collected at nearby house and victim assaulted while walking along road – opportunistic offence of short duration – metal pole, wooden axe handle and golf club used - equal culpability AA – physically involved in attack – struck V with weapon – limited involvement – tried to pull attackers away when realised attack gone too far – born in Kuwait – good rehabilitation in custody – profound remorse SS - probably struck victim with wooden handle on legs twice – also tried to pull attackers away – outstanding rehabilitation - remorse AC – drove assailants to and from attack – major turnaround in custody with good rehabilitation - remorse Co-offenders Tatchell and Wildsmith sentenced for murder: [2010] NSWSC 495 / [2012] NSWCCA 116

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
82.	Hutchinson (33) [2010] NSWCCA 122	Unlawful and dangerous – assault Assault – general	PG	7y 6m NPP 5y 6m	AD	Assault offences	Punched male victim twice to head in hotel – first punch in self-defence – both intoxicated – aggressive behaviour all night – history of aggression when intoxicated
83.	Donaczy (28) [2010] NSWCCA 143	Unlawful and dangerous - assault Assault - general	PG (20%)	6y NPP 3y 6m	AD	Prior record – not serious	Punched male acquaintance once to head outside hotel – evidence suggests tension between offender and victim throughout the night Difficult and abusive childhood – early drug abuse – part aboriginal – good prospects of rehabilitation
84.	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
85.	Colley (No.4) (18) [2010] NSWSC 1475 Rothman J	Accessory Unlawful and dangerous - assault Assault - general	VG	4y 6m NPP 16m		nil	Assisted brother in assault on male victim – told victim had assaulted sister – also suggestion sister had been raped – directed brother to victim’s home and waited outside during assault – entered house and pulled brother off attack – both left house without realising assault had killed victim Remorse and attempted suicide – suffering depression - prior good character – restrictive bail conditions

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
86.	<p>Sparks (26 at offence – 49 at sentence)</p> <p>Stracey (26 at offence – 49 at sentence)</p> <p>[2010] NSWSC 1512 Adams J</p>	<p>Unlawful and dangerous – assault</p> <p>Assault – general</p> <p>Motor vehicle</p>	<p>PG (25%) Mansl</p> <p>Rob in Co</p> <p>AR</p> <p>Sched: 3 offences</p> <p>PG (25%) Mansl</p> <p>Rob in Co</p> <p>Sched: 2 offences</p>	<p>6y 9m NPP 3y 6m</p> <p>3y 9m NPP 2y</p> <p>4y 10m NPP 2y 6m</p> <p><u>Total:</u> 7y 10m NPP 4y 6m</p> <p>5y 3m NPP 2y</p> <p>3y NPP 1y 6m (concurrent)</p>		<p>Lengthy record including recent charges</p> <p>Numerous offences until 1993</p>	<p>Manslaughter: 1987 – Stracey drove van past female pedestrians while Sparks attempted to grab bags – third victim struck head on kerb in attempt to resist robbery – abandoned van and stole car – took extensive steps to cover up involvement – offence opportunistic but part of pre-mediated pattern of criminal behaviour</p> <p>Sparks: robbed real estate with blood filled syringe and knife in 1997 - disturbed childhood – poly drug abuse – drug affected at time of offence – genuine remorse</p> <p>Stracey: rehabilitation from drug abuse in early 1990s – supportive family</p>
87.	<p>Pirini (21)</p> <p>[2011] NSWSC 1395 RA Hulme J</p> <p>Co-offenders: LA ROSA AOULI COSTA MENZIES HAWI</p>	<p>Accessory</p> <p>Stabbing – general</p> <p>Assault – general</p> <p>Fight – assault / stabbing</p> <p>Unlawful and dangerous – assault / stabbing</p>	<p>PG (20%) Manslaughter</p> <p>Affray</p>	<p>6y NPP 3y</p> <p>FT 2y 2m</p> <p><u>Total:</u> 6y 6m NPP 3y 6m</p>		<p>Driving offences</p>	<p>Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros including offender – involved in scuffle but did not punch or kick – during affray outside security area involved in fight with single member of rival club but did not use weapon and did not assault manslaughter victim – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury</p> <p>Left Club - good prospects of rehabilitation – remorse</p>

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
88.	La Rosa (37) [2011] NSWSC 1394 RA Hulme J Co-offenders: PIRINI AOULI COSTA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (15%) Manslaughter Affray	6y 7m NPP 3y 3m FT 2y 4m <u>Total:</u> 7y 1m NPP 3y 9m		Driving offences – on bail for driving offence	Treasurer of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros - affray outside security area where manslaughter victim fatally assaulted and stabbed – present but no physical acts during either incident - during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation - remorse
89.	Aouli (28) [2011] NSWSC 1393 RA Hulme J [2012] NSWCCA 104 Co-offenders: PIRINI COSTA LA ROSA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (12.5%) Manslaughter Affray	5y 8m NPP 3y FT 2y 5m <u>Total:</u> 6y 2m NPP 3y 6m	AD	Priors including assault – breached bail	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – flew in from Melbourne with other members of club having arranged for additional members to meet at airport - member of rival club pursued and assaulted inside security gate by Comancheros including offender – did not throw punch – present during affray outside security area where manslaughter victim fatally assaulted and stabbed but not physically involved – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse – good employment history

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
90.	Costa (29) [2011] NSWSC 1392 RA Hulme J Co-offenders: PIRINI AOULI LA ROSA MENZIES HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (12.5%) Manslaughter Affray	6y 7m NPP 3y 4m FT 2y 4m <u>Total:</u> 7y 1m NPP 3y 9m		Nil	Secretary of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – met Club members alighting from plane having arranged for attendance of other members at airport - member of rival club pursued and assaulted inside security gate by Comancheros including offender - involved in scuffle but did not punch or kick – present during affray outside security area where manslaughter victim fatally assaulted and stabbed but not physically involved – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse – good work ethic – married with two children
91.	Menzies (26) [2012] NSWSC 158 RA Hulme J Co-offenders: PIRINI AOULI LA ROSA COSTA HAWI	Accessory Stabbing - general Assault – general Fight – stabbing / assault Unlawful and dangerous – assault / stabbing	PG (15%) Mansl VG Affray	7y 2m NPP 3y 8m 3y <u>Total:</u> 7y 8m NPP 4y 2m		Two incidents of violence in public place	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – flew in from Melbourne with other members of club – involved in affray where member of rival club pursued and assaulted inside security gate by Comancheros – present during affray outside security area where manslaughter victim fatally assaulted and stabbed - sentenced for participation in joint criminal enterprise to commit unlawful and dangerous act in circumstances which objectively carried appreciable risk of serious injury being caused Aboriginal - left Club - good prospects of rehabilitation – genuine remorse
92.	Dean-Willcocks (23) [2012] NSWSC 107 Garling J	Unlawful and dangerous - assault Assault - general	VG (at murder trial - 25% for offer to plead)	7y 6m NPP 4y			Sustained chase and assault of male stranger in late 60s on street in early hours of morning – tackled him to concrete path and body slammed prone victim twice – caused multiple injuries to skull, brain, neck and ribs – offender returning from city very intoxicated – motivated by racial prejudice against Asians – vulnerable victim – spontaneous offence Good character – good prospects of rehabilitation

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93.	Humphries (25) [2012] NSWSC 419 RA Hulme J	Unlawful and dangerous - assault Assault – general Accessory	PG (15%)	6y NPP 3y 9m		Nil	With W and others, assaulted victim during planned “drug deal rip-off” – not principal offender but armed with bat and assisted in assault and bringing victim to ground – assisted with disposal of body – role of “back-up” - blindly followed W’s lead who was manipulative – at time of assault, offenders did not know that they had killed victim Prior good character – employed – suffered injuries through employment – support of family, friends – remorse – rehabilitation prospects - special circumstances – first period of imprisonment Co-offender White sentenced for murder [2012] NSWSC 1573
94.	Williams (26) [2012] NSWSC 520 Hidden J	Unlawful and dangerous - assault Assault - general	PG (15%)	6y NPP 3y 9m		Agg driving cause death; high-range PCA	Angry with third person over phone call to police about behaviour of offender’s father – armed with baseball bat to confront third person - struck victim to side of head with baseball bat causing severe brain injury – no ill-will towards victim who was there with other to assist third person – impulsively struck victim as he was approaching - went to work following day – initially denied matter to police Dysfunctional childhood – supportive grandparents and sister – rehabilitation prospects – remorse
95.	Butler [2012] NSWSC 1227 Button J	Provocation Assault - general	PG (25%)	7y NPP 4y 6m		Nil	Street prostitute – assaulted client with brick after victim made fantasy references to sexual assault – offender had suffered sexual assault as a child and been sexually assaulted a month earlier - victim’s comments provoked / caused offender to black out and assault victim Special circumstances - longstanding psychological problems - drug dependence - substantial adjustment on return to community - troubled upbringing – good progress rehabilitation.
96.	Castle (54) [2012] NSWSC 1603 RA Hulme J	Unlawful and dangerous - assault Assault - general	PG (25%)	7y 6m NPP 5y 8m		Armed rob, demand money, drugs, assault.	(1998) - single punch - robbery of female at ATM - during struggle offender punched victim causing her to fall – offender’s image caught on CCTV at ATM but denied involvement – DNA match Drug abuse – depression - lack of empathy towards victim

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97.	T Carney (18) L Cambey [2012] NSWSC 1344 Schmidt J (Cambey) [2013] NSWCCA 170	Excessive self defence Assault – general	PG PG	9y NPP 6y 7y 8m NPP 5y 2m	 AA 7y 2m NPP 4y 10m	Nil nil	(2006) – attended victim’s home with co-offender for purpose of purchasing drugs – victim assaulted TC with metal pole when discovered co-offender had taser – offenders unaware of taser – TC assaulted victim in self-defence with pole – victim suffered injuries consistent with being bashed by metal pole and being kicked – unplanned offence TC: drug and alcohol abuse LC: drug use – supportive family On appeal LC found less culpable Earlier convictions for murder quashed: <i>Carney; Cambey</i> [2011] NSWCCA 223
98.	McCulloch (23) B.Biffin A.Biffin (31) [2013] NSWSC 894 Rothman J	Unlawful and dangerous - assault Accessory Assault - general	PG 1/6th	6y 8m NPP 3y 4m 7y 1m NPP 3y 7m 5y 10m NPP 2y 11m		Violence – dishonesty – BES - driving Stealing - illegal use MV - BES; mal damage – drugs - driving. Drug offences	Four co-offenders planned to rob drug dealer – victim assaulted at premises and died – all party to assault although definite cause of death undetermined McCulloch - difficult upbringing – drug and alcohol abuse from young age – little formal schooling - rehabilitation – remorse – special circumstances B.Biffin - difficult upbringing – drug and alcohol abuse from young age – children - rehabilitation – special circumstances A.Biffin – difficult upbringing – drug and alcohol abuse – children – little formal schooling – employed from time to time – rehabilitation – remorse – family support – special circumstances Co-offender <i>Smith</i> sentenced for murder: [2012] NSWSC 1565
99.	Barnes (30) [2013] NSWSC 1627 Price J [2014] NSWCCA 224 Co-offender TUIVAGA	Assault - general Unlawful and dangerous - assault Accessory	PG (12.5%)	7y NPP 5y	AD	Agg BES – AR – breached parole	Drove 4 co-offenders to house of victim for confrontation and waited in car – during confrontation victim struck on head with gun which discharged causing death – offender aware gun had been brought - party to joint criminal enterprise to assault victim although did not foresee either death / GBH or it being achieved by use of a weapon Remorse Two other co-offenders charged with murder <i>Lockett</i> : [2013] NSWSC 1555 <i>Brown</i> [2013] NSWSC 1557 / [2015] NSWCCA 11

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100.	Loveridge (19) [2013] NSWSC 1638 Campbell J [2014] NSWCCA 120	Unlawful and dangerous - assault Assault - general	PG (25%) Mansl Assault Assault Assault AOABH	6y NPP 4y FT 4m FT 4m FT 4m FT 6m <u>Total:</u> 7y 2m 5y 2m	Crown AA 10y 6m NPP 7y FT 9m FT 11m FT 13m 22m NPP 16m <u>Total:</u> 13y 8m NPP 10y 2m	AOABH – breached conditional liberty	Punched male stranger in face (king-hit) in Kings Cross - victim fell suffering massive skull fracture and brain injury – assaulted other victims prior to and following this attack – had been out drinking with friends. Youth – remorse – rehabilitation - difficult upbringing
101.	Tuivaga (29) [2013] NSWSC 1626 Price J [2015] NSWCCA 145 Co-offenders: BARNES	Assault - general Accessory	PG (12.5%)	6y 6m 23d NPP 4y 6m	AD	Reckless wounding – breached bail	Joint criminal enterprise to assault victim with 4 co-offenders - became involved in physical fight – co-offender struck victim on head with the gun which discharged killing victim – cowardly attack by group – aware co-offender intended to assault male victim over money and text messages – unaware of presence of gun Father to three young children – wife suffering cancer – onerous custodial conditions – suffering depression Two other co-offenders charged with murder <u>Lockett</u> : [2013] NSWSC 1555 <u>Brown</u> [2013] NSWSC 1557 / [2015] NSWCCA 11
102.	Page (24) [2013] NSWSC 1711 Latham J	Accessory Assault - general	VG (at murder trial – 25% for offer) Mansl s.98	9y NPP 6y 6y NPP 4y (concurrent)		Breached bail for similar offences – offences for violence	With co-offender attempted to rob elderly man on train – co-offender struck victim on head with pane of glass causing death

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103.	Armstrong (28 at time of offence) [2014] NSWSC 700 Adamson J [2015] NSWCCA 273	Provocation Assault - general	PG (5%)	13y 3m NPP 9y 11m	AA 12y 3m NPP 9y 2m	Offences of violence both before and after manslaughter	1991 – fatal assault - killed male acquaintance after sexual encounter – lost control when advised by victim he was HIV positive – brutal and savage attack – great fear of AIDS in 1991 Lack of remorse – HIV – assaulted in gaol On appeal - no discernible change in sentencing patterns
104.	JP (15) [2014] NSWSC 698 Hall J Co-offenders: AN JH	Unlawful and Dangerous - assault Assault - general Juvenile offender Victim under 18y	VG (murder trial)	10y NPP 7y		Nil	Attended party uninvited - part of deliberate and unprovoked attack by six members of group on male guest – during sustained assault struck victim over head with bottle causing death Suffering intellectual disability
105.	McKnight (No.4) (29) [2014] NSWSC 1029 Campbell J	Substantial impairment Assault - general	VG (murder trial – 25% for offer)	8y NPP 6y		Car-jacking, goods in custody. On bond.	Kicked male victim in head three times causing brain hemorrhage - believed victim had stolen money from him – intent to inflict really serious personal injury Schizophrenic psychosis
106.	Wood (30) [2014] NSWCCA 184	Unlawful and dangerous – assault Assault - general	PG (5%)	6y 8m NPP 5y	Crown AA 11y 4m NPP 8y	AOABH, assault, obstruct officer, assault officer	Rode past 71y female on foot path – stopped riding and returned on foot to push victim – victim fell to ground hitting head and died – unprovoked, aggressive offence Aboriginal background – previous assault committed in similar circumstances
107.	Hunter (No 15) (37) [2014] NSWSC 1456 Button J	Unlawful and dangerous - assault Accessory Assault – general	VG (murder trial)	8y NPP 6y		Violence offences – lengthy record	One of several people who confronted victim and his son outside their home - victim hit offender with metal pole on head three times – offender left scene but returned with two others to home of victim who was brutally assaulted with weapons – not satisfied offender inflicted assault – joint criminal enterprise to bash – moving party in assault - revenge attack – planned – small degree of provocation Cognitive functioning affected to a limited degree at time of offence by earlier blows to head - disadvantaged deprived background – Aboriginal

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
108.	D'Ambrosio (50) [2014] NSWSC 1685 Adamson J	Unlawful and dangerous - assault Accessory Assault - general	PG (10%)	9y 10m NPP 7y 5m		Drug offences - on parole	Threatened with violence by victim over non-payment of drug debt so arranged for group of men to come to home at time appointed for repayment for protection - victim struck by mallet and baseball bat - offender orchestrated conflict that led to victim's death – planning and deliberation - limited remorse. Criminal history began late in life and resulted from drug addiction
109.	Field (39) [2014] NSWSC 1797 Fullerton J [2015] NSWCCA 332	Assault – general Unlawful and dangerous - assault Fight - assault	VG (at murder trial)	10y NPP 7y 6m	AD	nil	Punched male victim once to jaw in hotel car park during fight – unprovoked attack – escalating tensions between two groups in hotel during evening – fatal punch caused neck to rotate releasing arterial blood into cranial cavity Offence out of character – retired rugby league player – community involvement
110.	Dyer (29) [2014] NSWSC 1809 RS Hulme J	Assault – general Provocation	PG (15%)	6y 6m NPP 3y 9m		Breached bail for common assault – breached parole for assault offence – extensive record including assault	Both victim and offender homeless – altercation over victim leaving his trolley of possessions on road – victim verbally aggressive and threatened offender – one punch to side of face causing victim to hit head on road – less serious than other one-punch manslaughters – element of provocation Difficult and abusive childhood – aboriginal – remorse
111.	AN (15) [2014] NSWSC 1879 Hall J [2015] NSWSC 308 Hall J Co-offenders: JP JH	Accessory Juvenile offender Unlawful and dangerous - assault Assault – general Victim under 18y	PG (15%)	5y 11m NPP 3y (Order made to remain in juvenile detention until 21 years)		Nil prior – subsequent break and enter offences	Present in group of 6 during attack on 17y victim outside a party – victim struck to head with wine bottle and died of head injuries – intentional and unprovoked attack – attack was retaliation for victim speaking to police after being robbed months earlier – did not strike victim and not initiator of attack – bottom of hierarchy of co-offenders Good prospects of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
112.	JH (15) [2014] NSWSC 1878 Hall J [2017] NSWCCA 22 Co-offenders: JP AN	Accessory Juvenile offender Unlawful and dangerous - assault Assault – general Victim under 18y	VG (at murder trial)	10y NPP 7y	AD	nil	Present in group of 6 during attack on 17y victim outside a party – victim struck to head with wine bottle and died of head injuries – intentional and unprovoked attack – attack was retaliation for victim speaking to police after being robbed months earlier – part of group decision to attack victim
113.	Matthews (40) [2015] NSWSC 49 Davies J	Unlawful and dangerous - assault Assault - general	PG	7y 6m NPP 5y		Assault – AOABH - breach AVOs – property - minor drug offences – breached conditional liberty	Male victim killed in fight – offender and victim known to one another – violence involving alcohol – victim with undiagnosed aneurysm – aneurysm burst during fight. Very disadvantaged upbringing – alcohol and drug abuse from young age – alcohol abuse - prospects of rehabilitation – special circumstances – alcohol and psychiatric management
114.	Lane (52) [2015] NSWSC 118 Campbell J [2017] NSWCCA 46 [2018] HCA 28 [2018] NSWSC 1898 RA Hulme J	Unlawful and dangerous - assault Assault - general	VG (murder trial – 15% for offer) PG (6%) Sched: 2 x AOABH	8y 6m NPP 6y 4m	Conviction AD Conviction AA	Dishonesty, drugs – breached conditional liberty	(2012) Fight with male victim – both intoxicated – exchange of words - initial willingness by victim to engage in altercation with offender – offender escalated aggression after victim sought to disengage – threw 2-3 punches - second punch delivered with intent to inflict some appreciable harm but not really serious injury - force sufficient to knock victim off his feet and hit head on ground causing suffered brain injury. Previously good character – offence out of character - suffering PTSD due to accident - led to drug and alcohol abuse – remorse After successful conviction appeal pleaded guilty - on second sentence – deterioration of mental health and difficult custodial conditions – third time returned to custody – carer for elderly mother – prospects of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
115.	Hawi (28) [2015] NSWSC 206 Hoeben CJ at CL Co-offenders: PIRINI COSTA LA ROSA MENZIES AOULI	Stabbing – general Assault - general Accessory Fight – stabbing / assault Unlawful and dangerous – stabbing / assault	PG (17.5%)	6y 2m NPP 3y 6m		Nil significant	President of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros - affray outside security area where victim fatally assaulted and stabbed – present but no physical acts during either incident - common purpose to intimidate and contemplated possibility unlawful and dangerous act would be committed with appreciable risk of serious injury – aggravating factor that it took place in public airport Good prospects of rehabilitation – good family support
116.	Matia (34) [2015] NSWCCA 79	Assault – general Unlawful and dangerous - assault Fight - assault Excessive self defence	VG	3y NPP 18m	Crown AD	Nil	Security guard - part of group that pursued group including victim away from hotel – victim armed himself with paint scraper – single punch to head of victim - acted in defence of another Good character – offence out of character – security licence revoked – carer for mother – father to young child – genuine remorse
117.	Lambaditis (33) [2015] NSWSC 746 Hall J [2016] NSWCCA 117	Unlawful and dangerous - assault Assault – general	PG (25%) Sched: AOABH	9y NPP 6y 9m	AD	Mid-range PCA	Intoxicated male walking street late at night – punched male stranger in response to perceived negative comment – first victim's friend punched offender to head – offender retaliated by punching second male to head causing death – cowardly and unprovoked response – offender wholly responsible Remorse – reasonable prospects of rehabilitation
118.	Bouggas (32) [2015] NSWSC 914 McCallum J	Unlawful and dangerous - assault Assault - general	PG (20%)	8y NPP 5y		Minor drug and assault matters – breached parole	Argued with male acquaintance over stolen tablets – lifted and pushed victim against ledge of balcony six stories high – victim fell over balcony – did not foresee or intend fall Long history of drug and alcohol abuse – deep remorse – good prospects of rehabilitation

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
119.	Telemete (30) [2015] NSWSC 909 Adams J	Unlawful and dangerous - assault Assault – general Fight - assault Accessory	VG (murder trial – 25% for offer)	7y 6m NPP 4y 6m		Trivial offence	Fight between group of Samoan born men and victim and friends after midnight on street – all intoxicated – victim assaulted and kicked by co-offender – offender inflicted some injuries – victim died from positional asphyxiation – offender left scene unaware of seriousness of injuries Genuine remorse – out of character – good prospects of rehabilitation
120.	McNeil (25) [2015] NSWSC 1198 Johnson J	Unlawful and dangerous - assault Assault - general	VG (murder trial – 25% for offer) AOABH Assault	<u>Indicative</u> 9y 1y 6m 6m <u>Aggregate:</u> 10y NPP 7y 6m		Record including violence	Intoxicated in Kings Cross New Year's Eve – after run in with three youths selling drugs hit and kicked one youth – mistakenly believed male stranger part of group and punched him once to head causing death – punched victim's brother Genuine remorse – drug and alcohol history – some evidence of rehabilitation
121.	Duffy (No.7) (34) [2015] NSWSC 1321 Davies J [2017] NSWCCA 77	Unlawful and dangerous - assault Assault - General Accessory	VG (murder trial) Mansl PG (25%) Steal from dwelling house	12y NPP 8y FT 2y <u>Total:</u> 12y 8m NPP 8y 8m	AD	Contravening domestic violence restrictions, break and enter, behave offensive manner.	Co-offender strangled female victim with belt around her neck while offender held victim down - victim met co-offender at hotel and invited offender, co-offender and others to parents' place – all parties affected by drug and alcohol – victim killed after sexual involvement with offender – buried in shallow grave at property – guns and other property stolen from property after killing - spontaneous killing - above mid-range of objective seriousness No psychiatric or psychological issues - drug and alcohol abuse – lack of remorse – poor prospects of rehabilitation – continued illicit drug use in custody - supportive family. Co-offender sentenced for murder: <i>Evans</i> [2015] NSWSC 254

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
122.	RC (46) [2016] NSWSC 98 RA Hulme J	Unlawful and dangerous - assault Assault - general Accessory	PG (40% - plea and assist) Mansl Rob in Company	5y NPP 3y 7m FT 3y (concurrent)		Extensive record although minor violence – breached parole	Joint plan between four offenders - victim lured by co-offender to park for robbery - beaten to death by co-offender D – well acquaintance with D's propensity to violence – lesser role than co-offenders – element of duress (fear of D) – assaulted in prison and in dock by D Itinerant and anti-social lifestyle – drug use – limited cognitive resources reducing moral culpability and deterrence – remorse One co-offender sentenced for rob in company - D sentenced for murder: [2016] NSWSC 444
123.	Tanks (44) [2016] NSWCCA 519 Mathews AJ	Unlawful and dangerous - assault Assault - general	VG (murder trial - 20-25% for offer to plead) PG AOABH	7y NPP 4y FT 6m <u>Total:</u> 7y 3m NPP 4y 3m		Extensive - drug offences.	Unprovoked assault upon victim – had been drinking together in group – victim died of irreversible brain damage 10 days after assault. Drug abuse
124.	BH (17) [2016] NSWCCA 290	Unlawful and dangerous - assault Assault – general Juvenile offender	PG (25%)	5y 3m NPP 3y 11m	AD	Assault with intent to rob, rob in company, acts of threatened / actual violence - on probation.	Single punch – killed 60y male during altercation at shopping mall – responding in anger to racial slur or out of fear Difficult upbringing - borderline intellectual disability – ADHD
125.	Jones (22) [2017] NSWSC 19 Harrison J	Unlawful and dangerous - assault Assault - general	PG (15%)	10y NPP 6y		Not significant – no violence – breached conditional	Single punch to head of male stranger – victim remonstrating over offender's driving – unprovoked – spontaneous and completely unreasonable response – drove off and sought to disguise car – below mid-range Genuine remorse – good prospects of rehabilitation
126.	Grogan (41) [2017] NSWSC 378 Hidden AJ	Unlawful and dangerous - assault Assault – general	PG (20%)	9y 6m NPP 6y 6m		Violence (old) – robbery	Single punch to head of 71y male acquaintance – animosity but unclear what led to incident. Drug addiction – supportive family – rehabilitation prospects

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
127.	Azar (18 at offence – 22 at sentence) [2017] NSWSC 586 Mathews AJ	Substantial impairment Assault – General	PG (15%)	7y NPP 4y		Possess drugs, BE&S	Pinched on bottom by male friend – probably gesture of friendship but offender felt insulted – with co-offender attacked victim with various objects including a pole – victim suffered serious blunt force injuries - unprovoked attack – spontaneous rather than premeditated – intent to inflict grievous bodily harm - mid-range objective seriousness Schizophrenic illness - good prospects rehabilitation – youth - drug abuse Co-offender convicted and sentenced for murder
128.	Reeves (71) [2017] NSWSC 813 Campbell J	Assault – general Excessive self defence	PG (25%) Mansl Wilful disposal of body	7y 6m NPP 5y 4m FT 2y Total: 8y 6m NPP 6y 4m		Lengthy - armed robbery - assault.	2009 offence – victim’s body discovered in 2013 at Royal National Park – physical fight – victim armed with knife and offender initially acted in self-defence and defence of friend – after victim dropped knife fist fight continued and caused death of victim – final three blows to head not reasonable self-defence - gratuitous violence - spontaneous not premeditated - low to mid-range objective seriousness.
129.	Johnson (No.5) (37) [2017] NSWSC 1169 Button J	Unlawful and dangerous - assault Assault – general	VG (murder trial – 20% for offer and assistance)	6y NPP 4y		Long record for violence resulting from alcohol and stupidity	Argument developed during social drinking evening with sister, and two acquaintances – offender became annoyed and left sister’s unit – in response to taunt by one acquaintance returned to median strip outside unit and delivered beating – punched and kicked victim on ground – victim refused to go to hospital in ambulance but continued drinking and socialising with other friends – died next morning from ruptured spleen – at time of death victim suffering unknown poor health and life expectancy measured by months as result of alcohol abuse – this and refusal to attend hospital substantial contributors to death – spontaneous loss of temper with no intent to do more than actual bodily harm Aboriginal with difficult background – father with mental illness resulting in suicide, sexual abuse as a child, poor education and racial abuse resulted in drug abuse and violent response – discount given for evidence against perpetrator of sexual abuse - remorse

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
130.	Attwater (36) [2017] NSWSC 1710 Fullerton J [2021] NSWCCA 17	Unlawful and dangerous - assault Assault - General	VG (at murder trial) Mansl s.61J(1)	<u>Indicative</u> 18y 12y NPP 9y <u>Aggregate:</u> 19y NPP 14y 3m	AD	Minor offences	Engaged in sexual activity with male co-offender and female victim after heavy drinking – victim unconscious due to intoxication – inserted hand and fist into vagina forcefully, vigorously and repeatedly – ignored what would have been obvious bleeding – victim died from blood loss caused by two major tears to vaginal area – high level of culpability Delay and protective custody – co-offender convicted of hindering investigation and s.61J
131.	Patel (30) [2018] NSWSC 952 Lonergan J [2019] NSWCCA 170	Excessive self-defence Assault - general	VG (murder trial - 15% for offer to plead)	9y 4m NPP 7y	AD	Nil	Female - killed female victim – victim to marry offender's friend with whom offender had been sexually involved – in confrontation offender threatened by victim with knife resulting in physical struggle - victim died by strangulation and suffocation – failure by offender to try to resuscitate or call 000 - serious offence of its kind – killing occurred in home of victim. Good prospects rehabilitation - good character - unlikely to reoffend
132.	Jenkin (No 19) (43) [2019] NSWSC 609 Hamill J	Unlawful and dangerous - assault Assault - general	VG (murder trial) Mansl Conspiracy to murder	12y NPP 9y 13y NPP 8y <u>Total:</u> 19y NPP 14y		Detain for advantage and robbery, firearms, assault – breached parole	Manslaughter: victim homeless alcoholic – recent history of violence and intimidation to obtain access to victim's bank accounts – detention of victim for several days – series of assaults during detention – assaults caused by frustration and temper – after death put body into surfboard bag and stowed in shared laundry - very serious instance of manslaughter due to financial motivation, period of detention, brutality and failure to obtain medical treatment Conspiracy to murder: instructed stepbrother to murder witness in homicide investigation – amateurish plan to give witness “hot shot” (overdose of heroin) - serious example of offence due to motivation to interfere with witness Institutionalised after limited non-prison time over 26y - risk of future violent offending significant
133.	Hill (37) [2019] NSWSC 733 Ierace J	Substantial Impairment Assault – general	PG (25%)	8y NPP 5y 6m		Armed rob	Punched and kicked male victim, causing victim to fall backwards and strike his head – strangers passing on street Suffering schizophrenia

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
134.	Bentley (29)	Unlawful and dangerous - assault	(Each) PG Mansl (10%)	(Each) 12y NPP 8y	(Each) AA 12y NPP 7y	nil	<p>Offenders and victim fell out in relation to drug dealing – offenders formed agreement to assault victim – chased victim into shed at victim’s home – victim died from blood loss caused by assault – equal culpability – offenders disposed of body refusing to disclose location – body unlikely ever to be recovered – manslaughter offence above mid-range – disposal offence well above mid-range – drug dealing offence below mid-range - other offences taken into account</p> <p>Bentley – supplied 950g methamphetamine over 5 months – supply 20g cocaine and receiving stolen property taken into account – reasonable prospects of rehabilitation – unlikely to re-offend – remorse tempered by failure to disclose location of body</p> <p>Davies – supplied 505g methamphetamine over 5 months – aggravated break, enter and steal taken into account – difficult childhood - reasonable prospects of rehabilitation – unlikely to re-offend – remorse tempered by failure to disclose location of body</p> <p>Thomas – supplied 567g methamphetamine over 5 days – very disadvantaged childhood - reasonable prospects of rehabilitation – unlikely to re-offend – remorse tempered by failure to disclose location of body – young daughter</p> <p>Tilley – supplied 950g methamphetamine over 5 months – supply 20g cocaine and aggravated break, enter and steal taken into account – reasonable prospects of rehabilitation – unlikely to re-offend – remorse tempered by failure to disclose location of body</p> <p>CCA: Failure to consider cumulation of sentence as a special circumstance.</p>
	Davies (29)	Assault general	Dispose body (25%)	FT 3y	FT 3y	nil	
	Thomas (29)	Accessory	Supply comm qty drugs (20%)	3y NPP 2y	3y NPP 2y	limited	
	Tilley (33)			<u>Total:</u> 15y NPP 11y	<u>Total:</u> 15y NPP 10y	limited	
	[2019] NSWSC 1649 Harrison J [2021] NSWCCA 18						

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
135.	Davidson (No.3) [2020] NSWSC 58 Davies J	Unlawful and dangerous - assault Assault – general	VG (at murder trial)	11y NPP 7y		serious violent offences	Unable to form intent for murder due to intoxication from drugs – walked into cell of another prisoner during day and closed door – choked victim and assaulted him fracturing several ribs – offender left cell and victim found by another prisoner – sustained assault – no history of animosity - mid range seriousness - offence committed while awaiting sentence for attempt to choke different cell mate - major factor in offending was drugs although underlying mental illness also taken into account – deterrence and community protection significant Commenced drug use as a child – very low intellectual capacity – onerous custodial conditions as a result of offences – institutionalised – special circumstances
136.	O'Brien (31) Paterson (38) [2020] NSWSC 221 Bellew J (Paterson) [2021] NSWCCA 273	Unlawful and dangerous - assault Assault – general Accessory (O'Brien)	PG (15%) Sched: Possess drug PG (25%) Sched: 4 x possess drug	8y NPP 5y 6m 16y 6m NPP 12y 5m	AA 12y NPP 9y	record – no violence – breached bail record for violence – breached parole	Intoxicated victim forcibly removed from club – exchanged abusive words with group arriving at club including offenders – P attempted to punch victim – victim pursued by offenders 165 metres – O'B punched victim once causing fall – P kicked victim in head and stomped on head – victim lying prone on road and run over by car – liability based on joint criminal enterprise O'B – culpability below mid-range – genuine remorse P – long history of depression and troubled childhood – ADHD CCA: sentence manifestly excessive – error in assessing objective seriousness of applicant's offence as being at highest end of range - conduct did not warrant characterisation as something close to or towards worst category of manslaughter.
137.	Charters (39) [2020] NSWSC 842 Ierace J	Excessive self-defence Assault - general	VG (at murder trial)	4y 9m NPP 2y 9m		Serious personal violence, stalk and intimidate, breach DVO, escape lawful custody, armed w/i commit indictable offence	Victim broke into home threatening victim's ex-girlfriend – offender and co-offender present – offender hit victim to head with door brace to knock unconscious and stop threat – intent to cause serious harm – well below mid-range Drug user – schizophrenia/bipolar disorder, or neurological disorder - future prospects reasonable – Aboriginal background

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138.	Flame (No.4) (20) [2020] NSWSC 1826 Button J	Assault – general	VG (at murder trial - 25% for offer to plead)	8y NPP 5y 6m		Nil	Offender and victim spent evening socialising with friends – offender drank alcohol and consumed ecstasy and cannabis – became psychologically distressed after taking a tablet and left house – victim followed to assist – in psychotic state offender believed victim a demon and bashed victim to death – honestly believed in mortal danger - did not intend to kill best friend – drugs operated on vulnerability to developing mental illness to cause psychosis – killing extended, gruelling, terrifying, and horrifically painful – significant objective gravity Deep remorse – prior good character – subsequently diagnosed with schizophrenia making custodial conditions difficult – special circumstances – drug user who had previously had one extreme reaction to drug use
139.	Holmes (No. 7) (43 at offence - 47 at sentence) [2021] NSWSC 570 Campbell J	Assault – general Unlawful and dangerous - assault	VG (murder trial - 25% for offer to plead)	5y 9m NPP 4y 3m		Possess firearms	Fight with male victim, an old friend, at hotel – both intoxicated - victim attacked offender first – both forced to leave hotel, upon meeting again later victim forced further confrontation, provocation by victim, accused punched victim and continued to punch, victim fell – offender left victim – no specific intent to kill - short of mid-range Responsible caring parent – not excessive drinker
140.	Quinlin (23) [2021] NSWCCA 284	Unlawful and dangerous – assault Assault - general	PG (25%)	3y NPP 12m	Crown AD	Minor.	Fight with male victim after argument – both had been drinking together with others – both threw punches - football-style tackle on downward sloping concrete path – deceased fell backwards hit head on concrete – applicant left – victim found next morning lying in same position deceased. Indigenous - schizophrenia – youth - social disadvantage - lacked skills to deal with “adult issues” - good prospects of rehabilitation – low risk reoffending - remorse.

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
141.	Egan (53) [2022] NSWCCA 399	Unlawful and dangerous – assault Assault - general	VG (murder trial) PG prior to committal (25%)	7y 6m NPP 5y		Lengthy. Reckless wound, armed with intent, damage property, intimidate police officer. On conditional liberty.	Unprovoked drunken jostling between deceased and offender known to each other – offender purposely broke bottle, resulting in being left with sharp broken neck of bottle in his hand - struggle then developed with deceased – deceased fatally wounded to throat. Mature Aboriginal offender – homeless – childhood marred by violence, alcohol – substance abuse –physical and mental health - repeated imprisonment for actual or threatened violence. Remorse - very guarded optimism about future – special circumstances.
142.	Delaney (50) [2022] NSWSC 492 Fagan J [2023] NSWCCA 181	Unlawful and dangerous – assault Assault - general	VG (at murder trial)	16y NPP 12y	Conviction AD	Frequent violent offending	Assaulted male deceased known to offender – blamed deceased for break-up with partner and believed deceased had stolen money - blows with fists to head and series of knee-blows a significant cause of spleen rupture, leading to internal bleeding and heart failure – messages to deceased showed intent to cause GBH and highly emotional state. Remorse - mental disorders - major depressive disorder; substance abuse disorder - emotional volatility - very disadvantageous upbringing
143.	McDonough (24 at offence, 30 at sentence) [2022] NSWSC 1545 Fagan J	Unlawful and dangerous – assault Assault - general	VG (25% early offer PG to mansl)	7y 6m NPP 5y		AOABH, assault police, assault by negligent driving	2017 - Offender participated in severe, targeted bashing of male victim with three others (Symons, McDonald and Robertson convicted of murder) – assault took place at request of CC who had animosity with deceased – CC and brother JC convicted of accessory before fact to murder – concerted kicking and stomping attack - all members of Rebels outlaw motorcycle gang - joint criminal enterprise. Disadvantaged childhood involving poverty, violence – special circumstances – remorse

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
144.	ST (17) [2022] NSWSC 1696 Davies J	Unlawful and dangerous - assault Assault – general Fight - assault Accessory	PG (25%)	6y 9m NPP 4y 1m		AOABH – offences while in custody including affray	Group of youths assaulted 18y male victim outside party – victim kicked, punched and stomped to head and face for several minutes while defenceless on ground – assault fatal – offender joined brother in assault – kicked, punched and stomped on victim but did not cause death – contemplated grievous bodily harm – unprovoked, cowardly and vicious assault - sentenced separately for unrelated assault committed at party earlier in night Low intellectual functioning – substance abuse since early teens – remorse – some evidence of rehabilitation progress – prospects of rehabilitation good and risk of re-offending low – special circumstances Co-offenders sentenced for murder and affray
145.	White (18; 52 at sentence) [2023] NSWSC 611 Beech Jones CJ at CL	Assault – general Unlawful and dangerous act	PG (10%)	9y NPP 6y		Assaults, stealing, malicious damage, offensive language.	(1988) - punch by offender caused victim to fall off nearby cliff - offender did not seek assistance or alert authorities after victim's fall. Cognitive impairment did not affect objective seriousness of offending – youth - degree of cognitive impairment and violent, dysfunctional background contributed to offending and reduced moral culpability - remorse given little weight due to cognitive impairments.
146.	Roshan (34) [2023] NSWSC 704 Fagan J	Assault – general Excessive self defence	VG	12y NPP 9y		domestic violence offences, breach AVOs	59 year old female deceased verbally threatened to stab offender – offender offered deceased, who he had just met, a place to sleep in his hotel room – argument began when offender asked her to leave which she ignored – offender may have believed deceased held a knife behind her back – deceased shorter and evidently physically impaired – threat as perceived by accused could have been resolved by at most a single blow – offender knocked deceased to floor - ferocious beating and stomping of deceased's head to cause death - throat slashed multiple times, two stab wounds to the throat. Substance abuse – family support.

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
147.	Valencia Valencia (No.3) (20) [2023] NSWSC 780 Yehia J	Assault – general Unlawful and dangerous act Asphyxiation	VG (murder trial – 25% for offer)	10y NPP 6y 9m		nil	Offender paid victim for sexual services in her home – became angry when realised victim transgender and started punching victim – during struggle asphyxiated victim with lamp chord across neck – sought to conceal presence and left unit then country without seeking assistance for victim – spontaneous offence – mid-range Colombian national – remorse - discount for facilitation of administration of justice – difficulties in custody – isolation – good prospects of rehabilitation – unlikely to re-offend
148.	Godfrey (20) [2023] NSWSC 1312 Cavanagh J	Assault – general Strangulation Excessive self-defence	PG (25%)	4y 9m NPP 2y 10m		Limited history	Killed male victim by applying Brazilian jiu-jitsu hold known as “rear naked choke” – become involved in struggle with another drug addict in hallway outside unit – maintained choke hold beyond reasonable time for self-defence – degree of unreasonableness not extreme or high – persistence of lawful conduct – did not use available weapon Very difficult and traumatic teenage years with violence, drugs and mental health issues reduced moral culpability – remorse – excellent prospects of rehabilitation
149.	Bushell [2023] NSWSC 1456 Rothman J	Assault – general Poison – drug Unlawful and dangerous – assault	VG (murder trial – 25% for offer) PG (25%) Supply lge comm qty methylamphet Manufacture lge comm qty methylamphet Supply lge comm qty MDMA Sched: Possess precursor	<u>Indicative:</u> 9y 9y NPP 6y 10y NPP 6y 6m 9y NPP 9y <u>Aggregate:</u> 18y NPP 12y		Substantial – breached conditional liberty	Male victim killed by overdose of drug mixture including heroin and cocaine – drugs deliberately injected without consent by offender and / or brother with intent to temporarily incapacitate – context of drug cook – placed body in car to suggest suicide – below mid-range. Delivered 1.928kg methylamphetamines to male who was subsequently arrested transporting drugs interstate – involved in drug lab where 1.4442kg manufactured methylamphetamine and 1004.4g ephedrine found – 2.80522kg MDMA – mid-range <i>Bugmy</i> considerations – mental health issues making onerous custodial conditions – extremely guarded 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
150.	TB (13y 3m) [2024] NSWSC 447 RA Hulme AJ	Assault – general Unlawful and dangerous – assault Accessory	PG (25%)	7y 6m NPP 4y 6m		nil	One of group of people bashed 16y male victim over 33 minutes – victim suspected of stealing airpods so lured to home of owner – victim assaulted by adult male in bedroom while offender and others looked on – when adult male left offender and others continued assault – offender stomping on victim’s chest - sustained and extremely vicious assault involving kicking, punching and stomping – attack filmed Moral culpability reduced by youth and background of serious neglect, trauma, violence and transience – cultural disconnection – mental health issues – genuine remorse – good prospects of rehabilitation Co-offenders sentences for murder: BE [2023]; BL [2024]; AD [2024]

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