

## Manslaughter

### Provocation – Old Provisions

#### s 23(1) (NSW) *Crimes Act*

Where it appears the act or omission causing death was done or omitted under provocation jury shall acquit accused of murder and find accused guilty of manslaughter.

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

Amended 13.6.2014

For offences committed on or after 13.6.2014 see new table: *extreme provocation*

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	<b>Hill</b> (1981) 3 A Crim R 397	Provocation  Shooting – domestic	VG Murder		Conviction AA Manslaughter substituted  4y 6m NPP 1y		Shot husband after many years of physical abuse - on night of killing husband had returned home drunk and violent
2.	<b>Bogunovich</b> (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
3.	<b>Cotton</b> 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

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4.	<b>Low</b> (1991) 57 A Crim R 8	Diminished responsibility  Provocation  Assault - domestic	VG	Bond	Crown AA MT 2y AT 2y		Killed fiancée with claw hammer after she attacked him - brain damage as result of attack by victim with hammer
5.	<b>Whalen</b> NSWCCA 5.4.1991	Provocation  Stabbing – domestic	PG	MT 5y AT 3y	AD		Killed husband with carving knife and axe - relationship had deteriorated - on day of killing verbally and physically abused by victim
6.	<b>Mathews</b> (42) NSWCCA 17.4.1991	Provocation  Shooting - domestic	VG Murder  s.33  s.35  Armed with intent		Conviction AA Manslaughter verdict substituted  MT 9y 8m 22d AT 6y 2m 11d		Custody dispute with parents-in-law - killed mother-in-law and badly wounded father-in-law
7.	<b>Gardner</b> 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
8.	<b>Peterson</b> 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
9.	<b>Spencer</b> 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

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10.	<b>Morabito</b> (1992) 62 A Crim R 82	Provocation  Shooting – domestic  Accessory	VG	MT 8y AT 2y 6m	AD	nil	Arranged for lover to shoot husband during day leave from gaol - victim had record for violence, involved in organised crime and history of domestic violence - lured victim to place of killing and supplied gun - genuine fear that victim would kill her and children if he found out about affair
11.	<b>Panozzo</b> NSWCCA 25.3.1993	Provocation  Shooting - domestic	VG	MT 8y AT 2y 6m	AD		Shot estranged wife in front of two young daughters at point blank range - angered by finding love letters to another man
12.	<b>Jacky</b> 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
13.	<b>Jenkins</b> NSWCCA 14.7.1993	Provocation  Motor vehicle	VG	MT 2y 6m AT 3y 6m	AA MT 1y 6m AT 2y 6m	nil	Chinese woman met male victim with intention of plutonic relationship - victim attempted to force intercourse and offender took car with intention of escape - victim stood in front of car and was run over three times On appeal - SJ had not expected offender would serve sentence at gaol overlooking car park where offence took place
14.	<b>Nguyen</b> NSW SC Allen J 23.9.1993  (1995) 36 NSWLR 397	Stabbing – domestic  Provocation	VG	MT 2y 3m AT 9m	Conviction AD	Nil	Stabbed sister's brother in law during fight - argument over treatment of sister - no intent to do GBH - intended to show victim could not continue to treat sister badly and to prevent continuation of fight.
15.	<b>Thomas</b> NSWSC Dunford J 3.11.1994	Provocation  Stabbing - domestic	PG	MT 3y 6m AT 3y		mal wounding and assaults	Stabbed sister's ex de facto - history of violence - sister raped by victim - night of stabbing fight broke out between offender and victim as victim tried to approach sister
16.	<b>Pavia</b> NSWCCA 9.12.1994	Provocation  Assault - domestic	VG	MT 9y AT 3y	AA MT 7y AT 3y	nil	Intense but turbulent homosexual relationship with victim - bashed victim with barbell and statuette - previous assaults on victim

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17.	<b>Alexander</b> (1994) 78 A Crim R 141  NSWCCA 24.2.1995	Provocation  Shooting - domestic		MT 2y 6m AT 3y 6m	Crown AD	nil	Shot wife during argument - provocation was victim's attitude and behaviour to offender's children from first marriage
18.	<b>Gilham</b> (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
19.	<b>Dunn</b> (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
20.	<b>Vella</b> (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
21.	<b>McIntyre</b> NSWSC McInerney J 15.3.1996	Provocation  Stabbing – domestic	PG	MT 2y AT 4y		nil	Stabbed de facto husband when he grabbed her hair - prelude on previous occasions to serious assault - relationship characterised by inhumane treatment of offender - consumed drugs and alcohol
22.	<b>Nelson</b> NSWCCA 25.6.1996	Provocation  Assault - domestic	PG	MT 8y AT 6y	AA MT 6y AT 4y		Female - with brother bashed boarder in house believing he had molested offender's daughter - assaulted at house, then taken to deserted country area and brother continued assault with metal baseball bat Brother pleaded guilty to murder
23.	<b>Khan</b> (1996) 86 A Crim R 552	Provocation  Stabbing - domestic	VG	MT 2y AT 3y	Crown AA MT 4y AT 2y	nil	Stabbed wife's lover - devout Muslim - delay between finding wife with lover and arming himself

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24.	<b>Isaacs</b> (24) (1997) 41 NSWLR 374 (1997) 90 A Crim R 587	Provocation  Assault - domestic	VG	MT 5y AT 4y	AD	nil	Woke from sleep and beat violent flatmate with dowel
25.	<b>Cheung</b> (19) NSWCCA 12.3.1998	Provocation  Fight - stabbing  Stabbing - general	VG	MT 6y AT 2y	AD	nil	Fracas in street involving number of people following earlier argument in restaurant - two men stabbed, one fatally in chest seven times - victim had attacked offender with club-lock during fight - took knife anticipating violence
26.	<b>Young</b> (mid 30s) NSWSC Levine J 20.5.1998	Provocation  Stabbing – domestic	PG	MT 3y AT 3y		2 bonds, mal damage, assault	7 stab wounds to husband - victim started assaulting offender in argument about wine consumption - offender 'snapped' and went into frenzy - no premeditation Stormy and volatile relationship - offender not passive, helpless victim - some prospects of rehabilitation
27.	<b>McEwan</b> (35) NSWSC Barr J 9.7.1998	Provocation  Shooting - general	VG	MT 5y AT 3y		no violence	Male drinking heavily with ex-girlfriend and her de facto - de facto began hitting girlfriend - offender obtained gun from house and shot de facto - motivated by fear for ex-girlfriend - no prior animosity or jealousy Tragic childhood, including sexual abuse - highly suicidal in gaol - good rehabilitation in gaol
28.	<b>Dang</b> <a href="#">[1999] NSWCCA 42</a>	Provocation  Shooting – general	VG Manslaughter  Mal wound	MT 4y 6m AT 1y 6m  FT 4y (concurrent)	Crown AD	nil	Female had argument with female victim where victim had produced rifle - two weeks later another argument ensued - offender loaded rifle out of fear victim might use it against her - victim shot during argument - high level of criminality and culpability - also wounded victim's daughter.
29.	<b>Green</b> (22) <a href="#">[1999] NSWCCA 97</a>	Provocation  Stabbing - general	VG	MT 8y AT 2y 6m	AD	drug offences and assault	Stabbed 36y friend when friend made homosexual advances on him - traumatised by father sexually assaulting sisters - stabbed victim with poultry shears multiple times

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30.	<b>Korhonen</b> (16) <a href="#">[1999] NSWSC 933</a> Hulme J  (K) <a href="#">[2000] NSWCCA 24</a>	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
31.	<b>Howard</b> (31) <a href="#">[1999] NSWSC 1228</a> Bell J	Provocation  Stabbing - domestic	VG (at murder trial)	MT 5y AT 1y 6m		one juvenile offence	Stabbed neighbour during argument at offender's flat Good prospects of rehabilitation
32.	<b>Butcher</b> (50) <a href="#">[2000] NSWSC 92</a> Barr J	Provocation  Shooting - domestic	PG	MT 2y 6m AT 2y		nil	Shot friend in chest after finding him engaged in sexual intercourse with wife Genuine remorse - depressed at time - will not re-offend
33.	<b>Kelly</b> (30) <a href="#">[2000] NSWSC 701</a> Barr J	Provocation  Stabbing - domestic	PG	7y NPP 3y 6m		irrelevant	Stabbed victim during altercation in kitchen - victim started physical fight pushing offender to ground and causing wound to head - offender feared further assault may cause death because of earlier brain injury - stabbed victim seven times in chest and abdomen with fishing knife - intent to do really serious injury - culpability low Aboriginal - immediate assistance to victim - confession to police - genuine remorse
34.	<b>Vandersee</b> (47) <a href="#">[2000] NSWSC 916</a> James J	Provocation  Assault – domestic	VG (at murder trial)	8y NPP 5y		nil	Bashed sleeping husband to death with blunt end of a tomahawk or axe - provoked by domineering, controlling and cruel behaviour of victim over many years - medium degree of provocation Suffering mild depression at time of offence - made immediate admissions to police
35.	<b>Ko</b> (26) <a href="#">[2000] NSWSC 1130</a> Kirby J	Diminished responsibility  Provocation  Stabbing – domestic	PG	4y NPP 18m		Nil	Stabbed husband 17 times - married victim after he sexually assaulted her - unhappy and violent marriage - victim forced offender to have abortion and seeking divorce - offender isolated and suffering major depression - attempted suicide Exemplary life prior to offence - model prisoner - genuine remorse

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36.	<b>Dimond</b> (22) (2000) 118 A Crim R 188 <a href="#">[2000] NSWSC 1212</a> B-Parker AJ	Provocation  Stabbing - general	PG	6y NPP 4y 6m		record for some violence	Stabbed male victim once in chest with steak knife - provoked by behaviour of victim taunting offender and taking cap and t-shirt - armed self with knife and stabbed with intention to cause really serious harm Displayed aggressive personality disorder from early childhood - real risk of re-offending unless aggression dealt with
37.	<b>Dally</b> (47) (2000) 115 A Crim R 582 <a href="#">[2000] NSWCCA 162</a>	Provocation  Stabbing - domestic	VG	MT 6y AT 2y	AD	assault 21 years ago	Stabbed flatmate once in chest during argument over accommodation arrangements - picked up carving knife and victim stabbed when he pushed offender around – no pre-meditation Lonely life culminating in alcohol dependency - remorse
38.	<b>Veech</b> (25) <a href="#">[2001] NSWSC 68</a> Wood CJ at CL	Provocation  Shooting – general	VG (at murder trial)	6y 6m NPP 4y 11m		Nil relevant	Shot male friend four times with rifle after loud and aggressive confrontation outside offender's house - shot victim twice while standing and twice while victim helpless on ground - provocation significant and annoying but not extreme - struck victim with rifle butt after shooting him - intent to kill. Youth - unlikely to re-offend in this way - suffering physical effects of motor accident - benefit from counselling
39.	<b>Scurr</b> (34) <a href="#">[2001] NSWSC 727</a> Wood CJ at CL	Substantial Impairment  Provocation  Shooting – general	VG (at murder trial) Manslaughter  Manslaughter	6y NPP 3y  6y NPP 3y  <u>Total:</u> 7y 3m NPP 4y 6m		Nil relevant	Deliberate shooting of two men at home of victim M – offender a central witness in fraud case against victim M – over several months threats made against offender, wife and children of victim in fraud case linked to both victims – shot fired into home of offender – frustrated at perceived inactivity of police investigating threats – after death threat against parents made by phone call drove from Katoomba to home of one M in Sydney – fired eight shots at victim M – second victim also shot - both provocation and substantial impairment resulting from depressive illness Excellent subjective case – out of character – extremely good prospects of rehabilitation – minimal prospects of re-offending – remorse – voluntarily surrendered to police - assaulted in custody due to role as witness

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40.	<b>Bolt</b> (19) <a href="#">[2001] NSWSC 747</a> Hidden J  (2001) 126 A Crim R 284 <a href="#">[2001] NSWCCA 487</a>	Provocation  Stabbing - domestic	VG (at murder trial - 25% for offer)	5y 6m NPP 2y 6m	Crown AA 6y NPP 3y 6m	criminal record related to difficult background	Stabbed mother to death - extremely dysfunctional childhood caused by violent and abusive treatment by mother - earlier in afternoon mother had ordered mentally ill daughter to leave house – lost control when mother verbally abused offender and poked him in chest - degree of provocation high Unlikely to re-offend in this way – need for much rehabilitation - genuine remorse
41.	<b>Cardoso</b> (22) <a href="#">[2001] NSWSC 775</a> Hulme J  (2003) 137 A Crim R 535 <a href="#">[2003] NSWCCA 15</a>	Provocation  Stabbing – general  Fight - stabbing	VG (at murder trial - 12.5% for offer on appeal)	8y NPP 5y	AA 7y NPP 4y	nil	Stabbed male stranger in head during confrontation in shopping centre - offender left fight and obtained table knife before returning and stabbing victim - high degree of force required - moderate degree of provocation Offender more sensitive because of refugee background - refugee from East Timor - difficult background - remorse - limited English - isolated
42.	<b>See</b> (30) <a href="#">[2001] NSWSC 776</a> Hulme J	Provocation  Stabbing - general	VG (at murder trial) Manslaughter  PG s33B	7y NPP 4y 6m  FT 12m (concurrent)		nil	Stabbed fellow employee to death with carving knife and meat cleaver - 30 wounds - provoked by puerile teasing - chased another employee with meat cleaver History of being teased and picked on - Malaysian - working illegally - isolation in custody - little English
43.	<b>Gardiner</b> (46) <a href="#">[2001] NSWSC 1147</a> Whealy J	Provocation  Stabbing – domestic	PG (12%)	7y 11m NPP 5y		Lengthy minor matters only	Stabbed flatmate during argument over rent money - victim aggressive and abusive - stabbed victim in neck - attempted to save victim Special circumstances - no previous custody.
44.	<b>Ladd</b> (41) <a href="#">[2001] NSWSC 1055</a> James J	Provocation  Assault - domestic	PG (20%)	10y NPP 7y		1977 murder of female in WA, AOABH	Saw friend in bed with offender's 9y son - struck victim with wine bottle over head and punched him several times in head Single parent of no fixed abode – binge drinker – almost completed science degree while in custody – anger management issues

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45.	<b>Griffis</b> (33) <a href="#">[2001] NSWSC 1154</a> McClellan J	Provocation  Shooting - general	PG (30% combined)	7y NPP 5y 3m		minor juvenile offence	Went camping with male friend - during physical argument received burn injuries to face - retrieved gun and shot friend in head - intoxicated and under influence of cannabis Limited intelligence - good work record - problem with alcohol - unlikely to re-offend - remorse - co-operated with police
46.	<b>Popovic</b> (29) <a href="#">[2001] NSWSC 1118</a> O'Keefe J  <a href="#">[2003] NSWCCA 103</a>	Provocation  Shooting - general	PG Manslaughter  VG 9 x mal wound	10y NPP 6y  FT 3y  <u>Total:</u> 12y NPP 8y	AD	firearms offences	Discharged 2 shots from double barrelled shot gun in busy street - injured 9 bystanders - shot dead male – victim had been harassing and threatening offender over long period of time - offender in relationship with victim's ex-girlfriend - formed intent to kill prior to day of shooting - no fear for safety at time of shooting Some contrition - good prospects of rehabilitation
47.	<b>Lynch</b> (48) <a href="#">[2002] NSWSC 1140</a> Whealy J	Provocation  Stabbing – domestic	PG (15%) Manslaughter  Mal Wound	7y 8m NPP 5y 9m  4y 3m NPP 3y 2m  <u>Total:</u> 8y 8m NPP 6y 9m		record related to drug addiction, AOABH and DV	Stabbed estranged wife and lover found in bed together - killed male – sentenced for malicious wounding of wife - build up of anger, distress, humiliation and jealousy over afternoon and evening - no intent to kill - degree of provocation quite high Remorse
48.	<b>Tindall</b> (35) <a href="#">[2002] NSWSC 1108</a> Hidden J	Provocation  Assault - domestic	PG	5y 6m NPP 2y 6m		minor assault matters	Assaulted brother with hammer over head - victim acquitted of murder of father - offender chief Crown witness - subsequent to trial victim harassed offender for 5 months with physical abuse and threats - grave and cumulative provocation
49.	<b>Johnson</b> (22) <a href="#">[2003] NSWCCA 129</a>	Provocation  Stabbing - general	VG (at murder trial - 10% on appeal for offer)	10y NPP 7y 6m	AA 9y NPP 6y 9m	Breached parole for assault w/i to rob w/ wounding (stabbing)	Sexually abused by victim when 13y – went to victim's house seeking cannabis – fight over sexual advances resulted in stabbing in chest Protective custody – behavioural problems exacerbated by abuse

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50.	<b>KMB</b> (32) <a href="#">[2003] NSWSC 862</a> Bell J  <a href="#">[2005] NSWCCA 185</a>	Provocation  Assault - domestic	VG (at murder trial)	6y NPP 3y 6m	AD	Nil	Female – prolonged assault on Uncle who admitted sexually interfering with offender’s children – intent to inflict GBH – offender caring for victim whose mental health deteriorating Mother to 3 young children – prior good character – good prospects of rehabilitation
51.	<b>Marlow</b> (27) <a href="#">[2003] NSWSC 1130</a> Studdert J	Provocation  Stabbing - domestic	VG (at murder trial – 18% for offer)	9y NPP 6y 9m		Nil	Fatal stabbing with kitchen knife in victim’s home – extremely violent killing – sexually assaulted by victim on 16 <sup>th</sup> birthday – subsequent consensual sexual encounters - victim attempted further sexual assault night of killing
52.	<b>Walsh</b> (32) (2004) 142 A Crim R 140 <a href="#">[2004] NSWSC 111</a> Howie J	Provocation  Assault – domestic	VG (at murder trial – 15% for offer)	7y 3m NPP 5y 6m		Lengthy record including violence	Became involved in violent struggle with male acquaintance staying at offender’s premises – struck victim to head with hammer 8-9 times – victim aggressive all evening – substantial provocation – body dismembered and dumped in river – attempt made to cover offence Poor health
53.	<b>Williams</b> <a href="#">[2004] NSWSC 189</a> O’Keefe J  <a href="#">[2005] NSWCCA 99</a>	Provocation  Assault - domestic	VG (at murder trial)	14y NPP 10y 6m	AA 12y NPP 9y	Lengthy including violence	Bashed de facto wife with heavy metal weight lifting bar – low level of provocation – hid body in bushland – returned and re-hid body in another area No remorse – future dangerousness
54.	<b>Clarke</b> (50) <a href="#">[2004] NSWSC 1125</a> Barr J  <a href="#">[2008] NSWCCA 36</a>	Provocation  Stabbing - domestic	VG	8y NPP 6y	AD	Lengthy record for dishonesty offences	Stabbed neighbour after daughter complained of violent and heated argument – intent to inflict GBH – single thrust caused death – opportunistic – provocation not high – mid-range seriousness Moderate prospects of rehabilitation
55.	<b>Hamoui [No.4]</b> (27) <a href="#">[2005] NSWSC 279</a> Kirby J	Provocation  Assault – domestic	VG (at murder trial)	11y NPP 8y		Serious offences involving violence – breached bail	Strangled girlfriend and left body in car –circumstances of killing not clear – victim bound at some stage – intent to kill – gratuitous cruelty – victim’s relationships with other men probable provocation Physically and emotionally abused as a child – no contrition but evidence of rehabilitation in jail – resumed religious studies – engaged to sister of another inmate – possible mental illness

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56.	<b>Ali</b> (mid 20s) <a href="#">[2005] NSWSC 334</a> Wood CJ at CL	Excessive self defence  Provocation  Shooting - general	VG (at murder trial)	5y 8m NPP 2y 8m		Record includes acc to robbery	Victim obsessed with offender's partner - threatened offender and partner a number of times including using a pistol – on night of killing, victim had cocaine and told others he was going 'to get' offender – victim talked with offender then threatened killing of parents – offender shot victim when he was seeking refuge after being disarmed  Lebanese background – stable family – no drug use – remorse – involved in community – partner pregnant again
57.	<b>Dunn</b> (60) <a href="#">[2005] NSWSC 1231</a> Latham J	Provocation  Stabbing - domestic	VG (at murder trial – offer to plead)	8y NPP 5y		Nil	Stabbed female flatmate during argument – long history of taunting by victim – intent to inflict GBH – offence slightly above mid-range  Socially isolated – organic brain damage due to alcoholism – genuine contrition
58.	<b>Bullock</b> (25) <a href="#">[2005] NSWSC 1071</a> Buddin J	Provocation  Stabbing - general	VG (at murder trial – discount for offer)	8y NPP 5y		Minor	Punched by victim in hotel causing broken nose – walked to father's unit nearby and retrieved knives – on approaching victim outside hotel victim attempted to punch and offender stabbed victim multiple times – significant provocation – intent to cause GBH  Immediate remorse
59.	<b>Russell</b> (48) <a href="#">[2006] NSWSC 722</a> Newman AJ	Provocation  Stabbing - domestic	PG	6y NPP 3y			Female – stabbed de facto husband during confrontation – history of domestic violence – intent to inflict GBH  Mildly intellectually handicapped – difficult personal life – brain injury from accident
60.	<b>Moore</b> (72) <a href="#">[2006] NSWSC 1369</a> Bell J	Provocation  Shooting - domestic	PG (25%)	4y 6m NPP 2y		Nil	Shot 41y neighbour from housing commission flats – lengthy period of confrontation intensified during previous 6 days – unsuccessful in attempt to obtain AVO – significant distress and turmoil – threatened by victim who was a drug user with mental problems  Community involvement – impeccable character – early stages of dementia and some hearing loss
61.	<b>Berrier</b> (22) <a href="#">[2006] NSWSC 1421</a> Hidden J  <a href="#">[2009] NSWCCA 40</a>	Provocation  Stabbing - general	VG (at murder trial)	9y NPP 6y	AD	Minor	History of animosity and threatening behaviour by victim – stabbed during fight – single stab wound – significant level of provocation – intent to inflict GBH  Remorse – low intellectual ability

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62.	<b>A.S.Jones</b> (43) <a href="#">[2007] NSWSC 1333</a> Buddin J  Co-offenders: A JONES SM JONES S JONES E JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	VG (at murder trial - 15% for offer) Manslaughter  Mal wound  Sched: 4 off	8y 3m NPP 5y 3m  FT 18m  <u>Total</u> 9y NPP 6y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to A Jones and son of S Jones - exemplary conduct in custody – possibility of deportation – prospects of rehabilitation
63.	<b>A.Jones</b> (21) <a href="#">[2007] NSWSC 1333</a> Buddin J  <a href="#">[2009] NSWCCA 169</a>  Co-offenders: AS JONES SM JONES S JONES E JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	VG (at murder trial – 15% for offer) Manslaughter  Mal wound  Assault	8y 3m NPP 5y 3m  FT 18m  FT 4m  <u>Total</u> 9y NPP 6y	AD	Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – offender assaulted 16y female – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – convicted of alternative offences at trial for murder and attempt murder Son of AS Jones - remorse – prospects of rehabilitation

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
64.	<b>S.M.Jones</b> (32) <a href="#">[2007] NSWSC 1333</a> Buddin J  Co-offenders: AS JONES A JONES S JONES E JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	PG (15%) Manslaughter  Mal wound	8y 3m NPP 5y 3m  FT 18m  <u>Total</u> 9y NPP 6y		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation Evaded police and voluntarily surrendered during trial of other offenders
65.	<b>S.Jones</b> (64) <a href="#">[2007] NSWSC 1333</a> Buddin J  Co-offenders: AS JONES A JONES SM JONES E JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	VG (murder trial) Manslaughter  Mal wound	7y 9m NPP 4y 9m  FT 18m  <u>Total</u> 8y 6m NPP 5y 6m		Minor	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Father to AS Jones and S Jones and grandfather of A Jones

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
66.	<b>E.Jones</b> (female) 63) <a href="#">[2007] NSWSC 1333</a> Buddin J  Co-offenders: AS JONES A JONES SM JONES S JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	VG (murder trial) Manslaughter  Mal wound	7y NPP 4y 6m  FT 12m  <u>Total</u> 7y 6m NPP 5y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims' family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Culpability slightly less – wife of S Jones, mother to AS Jones – health problems – isolation from family (most in custody)
67.	<b>Frost</b> <a href="#">[2008] NSWSC 220</a> Barr J	Provocation  Assault – domestic	PG	6y NPP 3y 6m		Nil	Ex-wife visited from Philippines and asked to take youngest daughter back for purpose of prostitution – choked ex-wife – panicked and buried body – left trail suggesting victim returned to Philippines
68.	<b>Forrest</b> (48) <a href="#">[2008] NSWSC 301</a> Studdert AJ  <a href="#">[2009] NSWCCA 11</a>	Provocation  Stabbing - general	PG (25%)	7y 6m NPP 5y 9m	AD	No serious violence	Stabbed male acquaintance with kitchen knife – victim threatening to stab female – entered house to retrieve knife – significant degree of provocation Genuine remorse – effected by incident many years prior where innocently involved in stabbing
69.	<b>Mitchell</b> (24) <a href="#">[2008] NSWSC 320</a> Howie J	Provocation  Assault - general	PG (17.5%) Manslaughter  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

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
70.	<b>Ferguson</b> (36) <a href="#">[2008] NSWSC 761</a> Barr J	Substantial impairment  Provocation  Stabbing - domestic	PG	7y NPP 4y		Nil	Female entered sexual relationship with 22y male – unhappy relationship involving physical abuse, drug abuse and threats to kill – stabbed victim during argument – impulsive and sudden offence – element of provocation Major depressive disorder Also suffering amphetamine abuse disorder – sexually abused as a child – remorse – prior good character
71.	<b>Stevens</b> (40) <a href="#">[2008] NSWSC 1370</a> Hall J	Provocation  Assault - domestic	PG (20%)	8y 9m NPP 6y 7m		Some assault	Killed de facto wife – spleen injury caused abdominal bleeding – evidence of other injuries – both had history of drug addiction – under influence of prescribed medication at time of killing – unpremeditated offence – low level of provocation from victim’s drug addiction and failure to properly care for children
72.	<b>Chant</b> (41 – 48 at sentence) <a href="#">[2009] NSWSC 593</a> Howie J	Provocation  Shooting - domestic	PG (5%) Manslaughter  Interfering with human remains	4y 9m NPP 3y 4m  FT 10m  <u>Total:</u> 5y 4m NPP 3y 11m		nil	Female shot husband in head during argument – physically abusive relationship – gun initially produced by victim – dismembered body and disposed of in various locations Son assisted in hiding body
73.	<b>Lovett</b> (21) <a href="#">[2009] NSWSC 1427</a> Barr AJ	Provocation  Stabbing - domestic	VG (at murder trial)	10y 8m NPP 8y		Record for violence offences – breached conditional liberty	Aware victim at house of estranged partner – went to house, uninvited, at night, with knife – observed victim and partner having sexual intercourse – stabbed victim once in chest – assaulted victim with garden stake, dragged him out onto lawn and kicked body
74.	<b>Gabriel</b> (64) <a href="#">[2010] NSWSC 13</a> Price J	Provocation  Assault - domestic	VG (at murder trial – 10% for offer)	9y 3m NPP 6y 3m		nil	Struck wife to head with skutch hammer – history of arguments with wife and suspected infidelity on her part – degree of provocation not high – threatened by wife with knife – extreme degree of violence – element of self defence Also suffering early dementia, depression and underlying conditions – remorse – poor health

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
75.	<b>Lynch</b> (24) <a href="#">[2010] NSWSC 952</a> Studdert AJ	Provocation  Fight – stabbing  Stabbing - general	PG (15%)	7y NPP 5y		minor	Stabbed victim lightly to back of neck then fatally to stomach during confrontation between group of people outside house at night – all drinking – used work knife – intent to cause GBH – provocation of pushing offender's fiancé significant and shortly before stabbing Genuine remorse – good character
76.	<b>Goundar</b> <a href="#">[2010] NSWSC 1170</a> Kirby J  <a href="#">[2012] NSWCCA 87</a>	Provocation  Stabbing - domestic	VG (at murder trial – 17.5% for offer)	10y 8m NPP 8y	AD	Breached bail	Stabbed male friend during confrontation at ex-marital home – angry because victim had commenced sexual relationship with offender's estranged wife – planned confrontation although use of knife spontaneous – ferocious and sustained attack - placed in bath and left to die – intent to kill – disposed of body in bush with estranged wife – well above mid-range Fijian Indian – drinking problem and adjustment and depressive disorder at time of offence
77.	<b>Vulovic (No.4)</b> (53) <a href="#">[2012] NSWSC 212</a> Johnson J  <a href="#">[2013] NSWCCA 340</a>	Provocation  Stabbing - domestic	VG (at murder trial)	9y NPP 6y	AD	Record including assault	Stabbed male acquaintance during violent argument in offender's house – both parties intoxicated - provocative words and violence from victim – offender partially strangled – intent to inflict GBH – substantial level of objective gravity Reasonable prospects of rehabilitation
78.	<b>Singh</b> (22) <a href="#">[2012] NSWSC 637</a> McClellan CJ at CL	Provocation  Stabbing - domestic	VG (at murder trial – 25% for offer)	8y NPP 6y		nil	Cut wife's throat with a Stanley knife during argument by ferocious attack – during argument verbally abused by brother-in-law on telephone and by victim – victim threatened to leave and have offender kicked out of country - married in India so both could move to Australia – long history of marital disharmony and violence – brutal and violent attack Immature with no family or friends for support – suffering psychiatric disorder at time of offending – good prospects of rehabilitation
79.	<b>Won</b> <a href="#">[2012] NSWSC 855</a> Fullerton J	Provocation  Stabbing - domestic	VG (at murder trial – 25% for offer to plead)	7y 6m NPP 5y		Nil	Stabbed male acquaintance in arm severing arteries – stab wounds to back, chest and abdomen – found victim having sex with offender's wife – intent to kill Korean – exemplary character

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	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
80.	<b>Butler</b> <a href="#">[2012] NSWSC 1227</a> 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.
81.	<b>Hassan</b> (54) <a href="#">[2014] NSWSC 280</a> Garling J  <a href="#">[2018] NSWCCA 213</a>	Provocation Stabbing - domestic	VG (murder trial - 25% for offer)	12y NPP 9y	AD	nil	Stabbed wife multiple times during argument at family home – responding to low level verbal provocation – brutal and vicious assault on wife cowering under blankets in bed Born in Sudan – relatively safe childhood – good character
82.	<b>Armstrong</b> (28 at time of offence) <a href="#">[2014] NSWSC 700</a> Adamson J  <a href="#">[2015] NSWCCA 273</a>	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
83.	<b>Dyer</b> (29) <a href="#">[2014] NSWSC 1809</a> 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
84.	<b>Tabalbag</b> (31) <a href="#">[2016] NSWSC 1570</a> Mathews AJ	Provocation Stabbing – domestic	VG (murder trial - 25% for offer to plead)  Sched: AOABH	6y NPP 4y 6m		Nil	Came home unexpectedly during day to find female partner have intercourse with male acquaintance – pursued male into bathroom and stabbed several times – spontaneous act – cut finger of female partner – slightly below mid-line Prior good character – good prospects of rehabilitation – remorse – out of character

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