

Manslaughter

Victim Under 18 Years

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

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|----|---|---|---------------------------------------|-----------------------|---|--------|--|
| 1. | Ditfort NSWSC 30.11.1989 Loveday J NSWCCA 17.3.1992 | Victim under 18y Assault - domestic | PG | MT 7y 11m AT 2y 6m | AD | minor | Punched de facto's child in stomach and head in response to whingeing - failed to obtain medical assistance - placed child in bed and left house |
| 2. | Vaughan (1991) 56 A Crim R 355 | Victim under 18y Assault - domestic | PG Mansl Mal inflict GBH | MT 2y 6m AT 9m | Crown AA MT 3y 6m AT 18m | nil | Young father killed 5-month-old child - threw child into lounge from shoulder height several times in response to child's continual crying - broke child's arm two weeks earlier |
| 3. | Chayna (1993) 66 A Crim R 178 | Diminished responsibility Victim under 18y Stabbing - domestic | VG | | Conviction AA 3 x manslaughter substituted MT 6y AT 6y 2 x FT 6y (concurrent) | | Female offender - invited sister-in-law to house and subjected her to 'frenzied attack', hiding body in backyard - later that night stabbed own daughter and left body in room for two days - stabbed second daughter two days later when she returned from camp Major depressive illness Convicted at trial of 3 x murder |
| 4. | Vangelder NSWCCA 28.2.1994 | Unlawful & dangerous- assault Victim under 18y Assault - domestic | VG | MT 3y AT 2y | AD | nil | Female baby-sitter killed 4-month-old baby by shaking - mistreated baby previously for 'misbehaviour' Low intelligence |

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| 5. | Haynes NSWSC Studdert J 25.3.1994 | Diminished responsibility Victim under 18y Assault – domestic Strangulation | PG 2 x Mansl | MT 6y AT 6y | | driving offence | Strangled and suffocated daughter and step-daughter during access after argument with estranged wife - children told him they could not see him again and had been subjected to sexual abuse Obsessive personality and depressive disorder - news from children triggered catastrophic depression |
| 6. | Sempel NSWCCA 31.3.1994 | Victim under 18y Assault – domestic Unlawful and dangerous - assault | PG | MT 5y 3m AT 1y 9m | AD | recog for neglect of older child | Female killed 1-month old daughter - child previously suffering multiple injuries |
| 7. | Cutmore NSWSC Hunt CJ at CL 27.7.1994 | Victim under 18y Assault – domestic Unlawful and dangerous - assault | PG | MT 15m AT 21m | | no violence | Male killed de facto's 11-month-old nephew - child whingeing after falling out of cot - smacked child across head once. |
| 8. | Cameron (19) NSWCCA 27.9.1994 | Criminal negligence Electrocution Victim under 18y | VG | MT 8m AT 16m | AD | BES, supply, escape | Playing with power lines with friends - left exposed line - 15y male electrocuted when out walking his dog |
| 9. | Barnett (1994) 71 A Crim R 515 | Diminished responsibility Shooting – domestic Victim under 18y | | | Conviction AA Manslaughter substituted: MT 8y AT 2y | | Minding two step children while working as security guard - children arguing and shot step son at point blank range Brain damage as a result of car accident - loss of self-control Convicted of murder at trial |

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| 10. | Armstrong NSWSC B-Parker J 25.8.1995 | Criminal negligence Victim under 18y Failure to provide | VG | 4y GBB | | Nil | Mother failed to seek medical attention for four hours after child placed in scalding water by de facto - de facto convicted of murder |
| 11. | Hunt NSWSC Hidden J 2.4.1996 | Diminished responsibility Victim under 18y Poison / drug | PG | MT 3y AT 4y | | nil | Mother poisoned son on four occasions over several weeks Borderline personality disorder - symptoms of Munchausen's Syndrome by Proxy |
| 12. | Grierson NSWCCA 28.10.1996 | Diminished responsibility Victim under 18y Assault - domestic | PG | MT 3y AT 3y | | no relevant convictions | Mother threw child across room - one-off episode Borderline personality disorder |
| 13. | Wilson (19) NSWSC B-Parker 19.12.1997 | Assault – domestic Victim under 18y Unlawful and dangerous - assault | VG (at murder trial) | MT 3y AT 4y 6m | | Minor | Angered at crying of 2m daughter – slapped her to face then shook vigorously causing almost immediate death Physically abused by mother and sexually abused by step-father – prospects of rehabilitation with aunt in Canada |
| 14. | Murdoch NSWCCA 10.12.1998 | Victim under 18y Assault – domestic Unlawful and dangerous - assault | PG | MT 10y AT 5y | AD | | Male angered when de facto's 3y son dirtied clothes - blow to abdomen and forced child to have cold shower - few factual details |

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| 15. | Wilkinson (19) NSWSC Wood CJ at CL 9.4.1998 [1999] NSWCCA 248 | Criminal negligence Victim under 18y Failure to provide | VG | MT 3y 6m AT 3y | AD | nil | Mother failed to protect wellbeing of 6m son - ignored bruises for which de facto offered innocent explanations - ignored breathing difficulty - talked out of taking child to doctor by de facto over 2 days - suspected de facto mistreating child - inattentive and disinterested mother Mother of older daughter born when offender 16y and younger child |
| 16. | Dawney (30) [1999] NSWSC 944 Barr J | Substantial Impairment Victim under 18y Assault – domestic | PG | MT 5y AT 3y | | nil | Mother smothered 3y daughter - father of child taking Family Court action to gain custody Violent upbringing - history of sexual abuse - major depressive illness - borderline and schizotypal personality disorder - stresses at time of offence |
| 17. | Cramp (55) (1999) 110 A Crim R 198 [1999] NSWCCA 324 | Criminal negligence Unlawful and dangerous - misc Motor vehicle Victim under 18y | VG | MT 7y AT 2y 4m | AD | 2 x PCA | “Worst case category” - allowed 16y intoxicated female to drive car at high speed - ran into telegraph pole killing driver - 3 young children in car - looking after victim and children who were neighbours. |
| 18. | Wang [2000] NSWSC 447 Adams J | Unlawful and dangerous – assault Assault – domestic Substantial impairment Poison / drug Victim under 18y | PG Mansl husband Mansl daughter | 6y NPP 4y 2y (concurrent) | | nil | Female strangled husband and poisoned 1y daughter - attempting to kill self when found by police - accidentally killed husband trying to keep him from preventing her killing herself and daughter Severe depressive illness - daughter suffering from cerebral palsy and worried no one would look after her |

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| 19. | Sette (31) [2000] NSWSC 648 Barr J | Substantial impairment Victim under 18y Stabbing - domestic | PG | 2y suspended for 2y | | nil | Female removed 1y son from adoptive parents during access visit - stabbed him and hid body in dam - impulsive killing - significant depressive illness for long period of time and in dissociated state at time of killing Forced into adoption by family - support of family – remorse - rehabilitation |
| 20. | Luong (17) [2000] NSWSC 505 Sully J | Unlawful & dangerous - shooting Criminal negligence Juvenile offender Victim under 18y Shooting - domestic | VG | 4y NPP 2y | | nil | Hosted party for school friends at family home - while displaying gun deliberately fired at 16y female friend mistakenly believing no live ammunition in gun Excellent subjective features |
| 21. | Mika Sagato (2000) 116 A Crim R 31 [2000] NSWSC 852 Grove J | Unlawful and dangerous - misc Victim under 18y Drowning | PG | 2y suspended sentence | | Nil | Husband and wife held down 3y child while mother poured water down his throat - all held genuine religious beliefs about demons and believed child needed to be exorcised Mother of child found mentally ill Intense religious beliefs – remorse – parents to four children |
| 22. | Howard (26) [2000] NSWSC 876 Studdert J [2001] NSWCCA 309 | Unlawful and dangerous - assault Victim under 18y Assault - domestic | PG (10%) | 7y 6m NPP 5y 6m | AA Length of sentence confirmed but backdated to take into account PSC | previous convictions including assault on 7-week-old daughter | Severe shaking of 8-month-old son of de facto - no pre-meditation but lost temper at time of offence - previous shaking of daughter should have heightened awareness of consequences of shaking Strict protection |
| 23. | Do [2000] NSWCCA 459 | Criminal negligence Motor vehicle Victim under 18y | VG 2 x Mansl | MT 3y AT 1y (each) | Crown AD | nil | Driver of heavily laden truck lost control on downward incline of major road colliding with car and crashing into residential property - killed driver of car and 13y occupant of house - failure to observe warning signal and initial abandonment of responsibility although facts did not establish deliberate acceleration |

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| 24. | Bilton (32) [2000] NSWSC 1113 Bell J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | VG Mansl AOABH | 7y NPP 4y 6m FT 6m (concurrent) | | nil relevant | Punched 2y son of de facto in chest then severely shook child when child gasping for breath - angered by child's crying - threw tube of ointment at child Not living with child and mother - limited intellectual ability – remorse - threatened in custody |
| 25. | Li [2000] NSWSC 1088 G.James J | Substantial impairment Victim under 18y | PG | 5y GBB | | nil | Mother killed young child intending to then kill self – manner of killing not stated Endogenous depression - remorse - retained family support. |
| 26. | Recalde (23) [2000] NSWSC 1247 James J | Victim under 18y Assault – domestic Unlawful and dangerous - assault | PG | 9y NPP 6y | | prior convictions including assault on 13y child | Killed 6-month-old son of de facto - threw baby onto kitchen bench after scalding self with boiling water - water being boiled in preparation for shot of heroin - earlier in evening baby burnt on forehead when offender accidentally knocked over lamp while under influence of heroin - failed to obtain medical assistance Three months PSC - strict protection – remorse – youth - some prospects of rehabilitation |
| 27. | Woodland (20) [2001] NSWSC 416 Wood CJ at CL | Unlawful and dangerous - assault Victim under 18y Assault - domestic | PG (20%) | 8y NPP 5y | | nil | Killed 2y son by forcefully ramming head into refrigerator - very young and immature parents living in stressful circumstances with mother's parents Evidence of prior good character - past problems with anger and aggression |
| 28. | McDonald (2001) 124 A Crim R 17 [2001] NSWCCA 301 | Criminal negligence Failure to provide Victim under 18y | PG | 7y NPP 5y | AD | | Offender and husband caring for young developmentally retarded boy and male teenager - probably foster carers - aware teenage boy was violently assaulting younger boy over some 10 days - did not prevent horrific assaults and failed to get medical assistance for final fatal assault Mild intellectual disability |

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| 29. | Eriksson (23) [2001] NSWSC 781 Ireland AJ Co-offender: HILL | Criminal negligence Victim under 18y Failure to provide | PG (50% plea and assist) | 3y NPP 18m | | insignificant | Female - 2y son thrown into lounge by de facto – failed to obtain medical assistance despite deteriorating health of child - number of serious injuries inflicted on child by de facto over 10-14 days prior to death Difficult childhood - remorse - volatile and chaotic relationship with father of children then with co-offender - willing to give evidence against co-offender - will become blind within ten years - strict protection |
| 30. | Hill (23) [2001] NSWSC 978 Ireland AJ [2003] NSWCCA 16 Co-offender: ERIKSSON | Criminal negligence Victim under 18y Failure to provide | PG (11%) | 8y NPP 6y | AA 6y NPP 4y 6m | prior convictions | Physically abused 2y son of de facto over several weeks prior to death - refused to obtain medical treatment On appeal found SJ could not have been satisfied offender inflicted final injury on victim nor prevented mother from obtaining medical assistance |
| 31. | Laupama (29) [2001] NSWSC 1082 Bell J | Substantial impairment Assault - domestic Victim under 18y | PG (just under 10%) Sched: Kidnapping | 12y NPP 8y | | assault | Hung de facto wife's 5y daughter in noose from pergola following separation from de facto Major depressive illness with PTSD, social phobia, substance dependence - sexually assaulted as child |
| 32. | Byrne (33) [2001] NSWSC 1164 Dunford J | Unlawful & dangerous - assault Victim under 18y Assault - domestic | PG (15%) | 8y 6m NPP 6y | | | Mother killed 5y son under stress of being parent - multiple injuries – burning and bruising – left child uncovered in cold bathroom in middle of winter - no medical treatment until too late |
| 33. | Richards (39) [2002] NSWSC 415 Kirby J | Substantial impairment Victim under 18y Poison / drug | PG (25%) Mansl 2 x Att murder | 5y GBB (from date of sentence) FT 15m 10d (immediate release) | | nil | Suffering delusional disorder focussed on perceived sexual abuse by fathers of children - faced losing custody of children at Family Court hearing - attempted to kill self and three children by carbon monoxide poisoning - only baby died Improvement in mental health - protective custody - remorse |

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| 34. | Webb [2002] NSWSC 618 Hulme J | Unlawful and dangerous - assault Victim under 18y Assault - domestic | PG (10%) | 7y 6m NPP 4y 6m | | AR, driving | Struck 8 month old baby daughter - at home alone with 5 children under 6y while wife shopping. Unsettled upbringing - Aboriginal background. |
| 35. | O'Brien [2003] NSWCCA 121 | Criminal negligence Victim under 18y Failure to provide | VG | 5y NPP 2y | AD | Nil | 1y daughter died of malnutrition – refused to take daughter to hospital when requested by doctor – claimed husband refused hospital treatment and she was threatened and dominated by him – suffering BWS Assistance against husband – protective custody |
| 36. | Marshall (22) [2003] NSWSC 448 Adams J | Unlawful and dangerous - assault Victim under 18y Assault - domestic | VG (at murder trial - 20% for offer) | 6y NPP 3y 6m | | | Shook 9m son of girlfriend – minding child while mother at work – unthinking, momentary anger – no history of abuse Low intelligence – history of behavioural problems - protective custody - remorse and contrition |
| 37. | Monroe (30) (2003) 149 A Crim R 478 [2003] NSWSC 1271 O'Keefe J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | VG | 7y 6m NPP 4y | | Priors including assault | Shook 3m baby boy, threw him on lounge and punched in abdominal area – angry and intoxicated Depression and heart condition – protective custody |
| 38. | Hoerler (20) [2003] NSWSC 1187 Miles AJ (2004) 147 A Crim R 520 [2004] NSWCCA 184 | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (10%) Sched: 5 unrelated offences | 11y NPP 8y 3m | Crown AA 14y 4m NPP 10y 9m | Mal damage, burglary, assaults | Multiple injuries to 7m son of de facto – punch forced lower teeth into roof of mouth – punch to abdomen – clamp to toes causing breaks – died by asphyxiation or vomit inhalation Protective custody |

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| 39. | Wilson (30) [2003] NSWSC 1257 Miles AJ (2005) 62 NSWLR 346 [2005] NSWCCA 20 | Unlawful and dangerous - assault Assault – domestic Victim under 18y | VG (at murder trial) | 9y NPP 6y 11m | AA 6y NPP 4y 6m | Nil | Female - fatal shaking to 2y foster son – impact injuries to child inflicted earlier by husband – shook child in frustration Prior good character but troubled background – deteriorating psychiatric condition – protective custody |
| 40. | Dalton (18) [2004] NSWSC 446 Adams J [2005] NSWCCA 156 | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (10%) | 7y NPP 3y 3m | Crown AA 9y NPP 4y 6m | Not stated | Forced head of 23m child of de facto against window – threw child on mattress – severe head injury – continuous abuse over long period Aboriginal with childhood history of physical and emotional abuse – borderline personality disorder |
| 41. | Dawes [2004] NSWCCA 363 | Substantial impairment Assault – domestic Victim under 18y | PG | 5y GBB | Crown AD | Nil | Mother suffocated 10y autistic son – suffering major depressive illness – unable to obtain proper assistance or intervention – victim very difficult to manage – verbal and physical abuse by husband – illness and death of family members – step father physically abusing daughter – made serious attempt at suicide Depressive illness - remorse and contrition – evidence of rehabilitation with daughter |
| 42. | HMF (30) [2005] NSWSC 1214 Latham J | Criminal negligence Assault – domestic Victim under 18y | PG (25%) | 5y NPP 3y 9m | | Record for property offences | Mother scalded 8m daughter in bath – no medical assistance called – no intent to harm History of drug abuse – suffering drug induced psychosis – judgment significantly impaired – genuine remorse |
| 43. | RG (44) [2006] NSWSC 21 Buddin J | Substantial Impairment Victim under 18y Drowning | PG | 3y NPP 1y 3m 2d (immediate release) | | Minor | Mother drowned 5m daughter in river – suffering psychotic illness (substantial impairment in upper range) Protective custody – family and community support – remorse – good prospects of rehabilitation |

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| 44. | Clare (35) [2006] NSWSC 812 Grove J (2008) 181 A Crim R 450 [2008] NSWCCA 30 | Unlawful and dangerous - assault Victim under 18y Assault - domestic | VG Mansl PG s.66A | 25y NPP 18y 9m FT 14y (concurrent) | AA 25y NPP 15y 9m FT 14y (concurrent) | Record for sexual offences against children | Babysitting 3y boy – sexually penetrated victim - victim vomited and choked – applied electrical wires in attempt to revive already deceased victim – death caused by unlawful and dangerous act of anal intercourse - worst case category Self-confessed paedophile - serving sentence for sexual assault of victim's 6y sister |
| 45. | Rowe (26) [2007] NSWSC 300 Howie J | Unlawful and dangerous - misc Victim under 18y Poison / drug | VG (at murder trial) | 5y 6m NPP 3y | | Drugs and dishonesty | Mother killed 7m son by ingestion of methadone – struggling to cope with crying baby – sought to settle – distraught at death Disturbed childhood resulting in early drug addiction – onerous custodial conditions |
| 46. | Mundene (19) [2007] NSWSC 355 Howie J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (20%) | 6y 9m NPP 3y 9m (cumulative to revoked parole) | | Dishonesty – breached parole | Male killed de facto's 7m son by shaking – isolated anger against crying child – warned he could injure child – breach of trust Aboriginal with disrupted background – drug abuse – immaturity - remorse |
| 47. | Leach (23) [2007] NSWSC 429 Hulme J (2008) 183 A Crim R 1 [2008] NSWCCA 73 | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (10%) Sched: 2 x AOABH | 7y 6m NPP 4y 6m | AA 6y NPP 3y 6m | Nil | Father killed 7w daughter by asphyxiation – sat on unsettled daughter to stop her crying – assault offences constituted by hitting victim on head with hand Intellectually disabled – depressive disorder – frustrated at inability to settle child – good character – remorse – excellent prospects of rehabilitation |
| 48. | Schultz (23) [2007] NSWSC 809 Barr J | Substantial impairment Assault – domestic Victim under 18y | PG | 7y NPP 3y 6m | | Nil | Mother killed 9m daughter – shook baby and head struck against brick fireplace – unable to settle crying child – intent to do GBH – suffering depressive illness and possible other mental conditions exacerbated by cannabis use Remorse – prior good character |

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| 49. | Thurlow (20) [2007] NSWSC 1203 Mathews AJ | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (25%) Mans Att pervert course of justice Sched: Att pervert course of justice | 6y 9m NPP 4y 3m 16m NPP 9m Total: 7y 6m NPP 5y | | Record – mostly subsequent to offence | Female - pushed 16w daughter of de facto into futon bed – head hit wooden armrest – frustrated at crying – asked cell mate to confess to killing over 2 months – attempted to have de facto lie about offence Traumatic childhood resulting in early drug addiction - remorse |
| 50. | 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 |
| 51. | Compton (30) [2008] NSWSC 204 Studdert AJ | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (10%) | 9y NPP 6y 9m | | Lengthy – assaults on de facto partners | Assaulted 17m daughter of de facto – punched victim in stomach and to head – failed to tell mother or obtain medical care – child died next morning – coming down from amphetamines – angry at inability to obtain more drugs – lied to police Intellectual disability |
| 52. | Williamson (19) [2008] NSWSC 686 James J | Excessive self defence Stabbing – general Victim under 18y | PG (15%) | 5y NPP 2y 6m | | Nil | Stabbed 15y male once in abdomen with broken glass drug smoking pipe during fight at party in bushland – fight provoked by victim jealous of offender's relationship with ex-girlfriend – assaulted by victim and others – sustained head injury – spontaneous offence – intent to cause GBH – intoxicated Disrupted childhood – substance abuse – good prospects of rehabilitation |

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| 53. | HA (29) [2008] NSWSC 1368 Rothman J | Criminal negligence Victim under 18y Failure to provide | PG (35% plea and assist) | 2y suspended sentence | | Nil | Failed to obtain medical care for 4y son – son suffering numerous medical conditions resulting in severe malnutrition – died from pneumonia and kidney infection – need for medical care would have been obvious to parents – medical care declined due to genuine religious beliefs of HA and husband – husband older and dominating figure (although not abusive) – breach of trust - child otherwise well cared for – low level of culpability Mother to ten surviving children – husband died since arrest – subsequent support of family and providing good care for remaining children – remorse – borderline intelligence |
| 54. | GJL (36) [2009] NSWDC 167 Knox SC DCJ | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (20%) | 6y NPP 4y | | nil | Mother of 9w baby violently shook baby – using drugs – one off incident Suffering long term psychiatric problems as a result of sexual assault and drug use |
| 55. | T Sam M Sam [2009] NSWSC 1003 Johnson J (2011) 206 A Crim R 67 [2011] NSWCCA 36 | Criminal negligence Victim under 18y Failure to provide | VG VG | 8y NPP 6y 5y 4m NPP 4y | AD | Nil Nil | Parents of 9m daughter failed to obtain appropriate medical treatment for eczema over many months – father a trained homeopath – each offender well educated - upon examination at hospital found to be in severe pain, malnourished, dehydrated, severe skin condition and ulcerated eyes – died from infection – serious case of negligence - seriousness of medical condition clear – failure constituted cruelty Subsequently have 3y son – successfully treated for eczema – delay in charging – effect of imprisonment on son exceptional circumstances – limited insight into offences T Sam – narcissistic personality traits – rigid reliance upon homeopathic remedies M Sam - compliant woman |

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| 56. | BW (No 3) (46) [2009] NSWSC 1043 Hulme J [2011] NSWCCA 176 | Criminal negligence Victim under 18y Failure to provide | VG | 16y NPP 12y | AD | Nil | Father of 7y daughter who died from starvation and neglect – victim suffered developmental delay and autism – left in bedroom in unhygienic conditions - ignored daughter - worst case Mother convicted of murder - [2009] NSWSC 1043 / [2013] NSWCCA 103 Unlikely to reoffend – rehabilitation. |
| 57. | Nguyen (No.2) (29) [2009] NSWSC 1120 Hoeben J | Substantial impairment Assault – domestic Victim under 18y | VG 2 x manslaughter | 5y NPP 3y (each) <u>Total</u> 6y NPP 4y | | nil | Vietnamese mother killed 5y son and 3y daughter – attempted to kill children with rat poison – suffocated both children then took poison herself – made several unsuccessful attempts at suicide - distressed at husband's infidelity and leaving relationship – severe depression – killings had an element of retribution although primarily altruistic Severe depression Genuine remorse |
| 58. | Shepherd (31) [2010] NSWSC 154 RA Hulme J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (12.5%) | 7y NPP 4y 6m | | Record including assaults | Killed 4m son – had sole care of child after mother died – death caused by blunt force injury to head – accepted handling of child too rough on more than one occasion – threw child onto bed in frustration - no experience in caring for children and inadequate knowledge – caused fractured ribs on different occasion – offence in lower range Difficult and traumatic childhood – suffering depression - strong remorse – good prospects of rehabilitation |
| 59. | HT (16) [2010] NSWSC 324 Hidden J | Excessive self defence Juvenile offender Fight – stabbing Victim under 18y Stabbing - general | PG (15%) Mansl Carry knife in public place | 6y NPP 3y FT 3m (concurrent) | | nil | Fatally stabbed 17y youth on train – victim's group pursued offender's group on train – victim stabbed several times to chest when he approached offender throwing punches – carried knife for personal protection Deep remorse – fearful as a result of being a victim of violence in the past – violence out of character |

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| 60. | NLH (18) [2010] NSWSC 662 RA Hulme J Co-offender: PFC | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (30% plea and assist) | 4y 2m NPP 2y 6m | | Nil | Female killed 7 week old baby – blunt force injury to head - young mother of victim and toddler – post natal depression – violence of partner towards victim in past Remorse – good rehabilitation prospects. |
| 61. | PFC (24) [2010] NSWSC 834 RA Hulme J (PTC) [2011] NSWCCA 51 Co-offender: NLH | Criminal negligence Victim under 18y Failure to provide | PG (5%) Sched: 2 x possess cannabis leaf | 5y 2m NPP 3y | AD | Nil | Failed to obtain medical assistance for 7w baby knowing partner and mother of victim had harmed victim – NLH threw victim into bassinet then pushed bassinet which fell onto ground – victim stopped breathing later in evening - earlier injuries also found on victim's body Young couple struggling financially – NLH difficulty in coping with raising two small children - good character – supportive family – good rehabilitation prospects – remorse |
| 62. | LC (32) [2010] NSWSC 815 Hidden J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (10%) | 14y 6m NPP 10y 6m | | Manslaughter (diminished responsibility)– killed stranger at brothel – breached parole | Killed 13m stepson – held baby around the neck while shaking and choking him violently – threatened mother with knife when she attempted to intervene – threw child on mattress and stomped on chest - prior assaults over previous five months – slapped, shook, choked and punched baby on four prior occasions – impulsive offence Aboriginal with difficult childhood – drug and alcohol abuse |
| 63. | Sutton (19) [2010] NSWSC 1273 Adams J | Unlawful and dangerous - assault Assault – domestic Victim under 18y | PG (25%) | 4y NPP 2y | | minor | Caused death of 6m daughter through improper handling that reasonable person would have known carried appreciable risk of harm – nature of assault unclear – probably shaking - no prior violence – isolated aberration inconsistent with offender's character – probably single unpremeditated act of momentary frustration and lack of control in ignorance of potential for significant injury Remorse – very good prospects of rehabilitation – strict protection |

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| 64. | LTN (29) [2011] NSWSC 614 Hidden J | Substantial impairment Victim under 18y Drowning | PG (20%) | 4y NPP 2y | | nil | Suffering from schizoaffective disorder – drowned 2y daughter in canal – had been seeking to kill herself as well – impairment of very high order Good family support – good prospects of rehabilitation |
| 65. | HT (17 / 34) [2012] NSWSC 656 Hidden J | Accessory Juvenile offender Stabbing – general Victim under 18y | VG (at murder trial – 30% for offer to plead and assist) Rob in Co | 6y 6m NPP 2y 3m FT 3y 6m (concurrent) | | Little of significance | 1995 – robbed 16y school boy walking home from sports training – co-offender armed with knife – victim stabbed by co-offender during struggle – aware of knife and contemplated use to scare victim Evidence of rehabilitation – assistance against father of co-offender for accessory after fact to murder |
| 66. | Duncan (36) [2012] NSWCCA 78 | Motor vehicle Victim under 18y | PG 2 x Manslaughter 3 x Agg dangerous driving causing GBH | 9y 6m NPP 5y (each) FT 3y <u>Total:</u> 12y 6m NPP 8y | AD | | Female driving car load of passengers 3am on country road – encouraged male driver to reach excessive speeds on journey out – on return journey sought to better speed – passengers asking offender to slow down - missed bend and collided with trees – four passengers aged under 18y Remorse – mother to children – excellent prospects of rehabilitation |
| 67. | Rees (27) [2012] NSWSC 922 Grove AJ | Substantial impairment Victim under 18y Drowning | VG (at murder trial – offer to plead) | 5y NPP 3y 2m | | nil | Female – drowned 17mth daughter by leaving in bath Ongoing destructive cruel relationship with father of child – lack of support - depression and depersonalisation led to actions which couldn't properly assess and control - otherwise loving and exemplary mother - good prospects rehabilitation |
| 68. | JC (17) [2012] NSWSC 1393 Barr AJ | Unlawful and dangerous - stabbing Juvenile offender Stabbing – domestic Victim under 18y | PG (modest) | 5y 6m NPP 3y | | nil | Female – stabbed 16y brother of de facto at offender's flat – reason for killing unclear – spontaneous offence Troubled background – drug and mental health problems – probably in dissociative state at time of killing – remorse – chronic physical illness |

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| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|-----|---|--|---|--|--------|------------------|--|
| 69. | Forrest (22) [2013] NSWSC 377 Fullerton J | Unlawful and dangerous - assault Victim under 18y Assault - domestic | PG (10%) | 8y NPP 6y | | Drugs, assault | In relationship with 4y victim's mother – gave victim a bath and repeatedly struck him to head, face and nose and abdomen – position of care and trust – considerable assault but not sustained or premeditated – affected by drugs Amphetamine use – dysfunctional upbringing – poorly educated – prone to violent outbursts |
| 70. | Smith (31) [2013] NSWSC 796 Latham J [2014] NSWCCA 316 | Criminal negligence Victim under 18y Failure to provide | PG (25%) Mansl Access after fact to murder | FT 7y 12y NPP 9y Total: 16y NPP 12y | AD | Relatively minor | Failed to obtain medical treatment for 6y daughter of de facto – victim assaulted by mother – after unsuccessful attempts to revive child offender put her to bed and went to work next day – child died during day – body placed in suitcase for several days then placed in shallow grave in bush and burned – gave false accounts of disappearance and laid false trails for over nine months – aware victim subjected to long term physical abuse at hands of mother – acted out of loyalty to de facto – manslaughter top of range – accessory worst case Co-offender sentenced for murder: Abrahams |
| 71. | 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 |

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| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|-----|---|---|-------------------------|---|--------|---|--|
| 72. | Robertson (44) [2014] NSWSC 1401 Harrison J [2015] NSWCCA 251 | Unlawful and dangerous - stabbing Accessory Stabbing – general Victim under 18y | PG (15%) | 10y 8m NPP 8y | AD | | Part of a joint criminal enterprise involving unlawful and dangerous act – agreement to "rough up" or assault male target in return for drugs – offender drove co-offender to place where target worked – stayed in car – co-offender mistakenly and fatally stabbed 15y son of target in chest - no knowledge co-offender armed with knife/weapon or would kill or inflict GBH Rehabilitation prospects – good family support – no previous violence Co-offender sentenced for murder: McArthur [2014] NSWSC 1401 |
| 73. | 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 |
| 74. | 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 |

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| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|-----|---|---|--|--|--------|--------|---|
| 75. | A (No 5) (34) [2015] NSWSC 670 Bellew J | Criminal negligence Victim under 18y Failure to provide | VG | 4y 6m NPP 2y 6m | | Nil | Female – failure to obtain medical treatment for 2y son over one month - victim suffered physical injuries and displayed symptoms of being unwell – no evidence offender present when injuries inflicted - period of offending followed offender’s hospitalisation for episode of self-harm - otherwise appropriately attentive to child’s needs - offending behaviour was aberrant – no deliberate decision not to obtain medical assistance - not total abandonment of responsibility - substantially below mid-range Difficult background – mental illness / health – unlikely to re-offend |
| 76. | KJ (27) [2015] NSWSC 767 Harrison J | Criminal negligence Victim under 18y Failure to provide | PG (40%) (see facts for additional offences) | <u>Manslaughter</u> 12y <u>Aggregate:</u> 14y NPP 10y 6m | | nil | Mother to four children including 7y male victim - intellectually disabled victim subjected to constant physical and psychological abuse by offender and her partner as method of discipline – lied to police suggesting death resulted from fall off pogo stick – failed to obtain medical assistance for 24h – all offences committed in presence of siblings (children) – substantial emotional and physical harm – manslaughter most serious case of neglect – other offences vary in seriousness from low to above mid-range 4 x s.61 assault s.91G(1)(c) child abuse offence 3 x s.91H(2) child abuse offence s.35(3) reckless wounding in company s.43A(2) fail to provide necessities Sched: 2 x fail to provide adequate lodgings Childhood characterised by violence and sexual abuse – relationships characterised by violence – low intelligence – dependent personality – came under control and influence of co-offender – genuine remorse – assistance – voluntary admission to previously unknown offences |

| | Case (age if known) | Type | Plea | Sentence | Appeal | Record | Facts |
|-----|--|--|----------------------|-------------------------------------|--------|---|--|
| 77. | MB (35 at offence – 41 at sentence) [2017] NSWSC 619 Beech-Jones J | Substantial impairment Drowning Victim under 18y | PG | 4y GBB (little under 2y PSC) | | Nil significant | 2010 offence - mother either drowned or failed to retrieve 6m daughter from water – reckless indifference to life – breach of trust – not planned Suffering schizoaffective disorder – major depressive disorder with psychotic features – became obsessed that daughter had genetic disorder despite testing showing no abnormality – found not fit to plead and sentenced to limiting term for murder – spent just under 2 years in custody before stabilising and entering plea for manslaughter Good personal support – prospects of rehabilitation – extra curial punishment – importance of supervision and reintegration into community |
| 78. | Toohey (No 2) (38) [2017] NSWSC 1217 Fagan J | Unlawful and dangerous act - assault Victim under 18y Assault - domestic | VG (murder trial) | 7y 6m NPP 4y 6m | | Not relevant | Killed 11m daughter of partner - isolated and tragic incident - lost control on one occasion and inflicted several head injuries - under pressure of sole parenting - inflicted blows in frustration – did not intend harm but reasonable person would have realised likely to cause serious harm - considerable distress - violence not prolonged - no gratuitous or deliberate cruelty. Lack of express remorse – low likelihood of reoffending. |
| 79. | BT (25) [2017] NSWSC 1600 Hidden AJ | Unlawful and dangerous - assault Victim under 18y Assault – domestic | PG (20%) | 8y NPP 5y | | Lengthy but much insignificant – some common assault – assault on mother of victim after death of child | Killed 8w daughter by blow to back of head – circumstances of killing unknown – serious breach of trust – spontaneous offence Difficult and violent childhood – remorse – some prospects of rehabilitation – protection in custody |

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|-----|--|--|--|----------------|----------------------------|---|---|
| 80. | Chandler (22) [2017] NSWSC 1758 Johnson J [2023] NSWCCA 59 | Unlawful and dangerous - misc Motor vehicle Victim under 18y | PG (5%) Mansl Sched: Take and drive MV Drive unlicensed Police pursuit offence | 19y NPP 13y | AA 15y 8m NPP 10y 6m | breached bail – lengthy record – many driving offences – aggravating factor | Offender driving stolen car in police pursuit – drove through backyard killing 18m child – continued driving through park with adults and children and pursuit terminated – never held a licence to drive – previously lived in area and aware of proximity of park through backyard – held actual realisation of appreciable risk of serious injury – at gravest end of spectrum - aggravated by being committed in home of victim Extremely dysfunctional and difficult childhood resulting in early and heavy drug abuse – mental health issues – <i>Bugmy</i> considerations – institutionalised criminal – protective custody due to nature of offence On appeal: manifestly excessive |
| 81. | TP (mid 30s) [2018] NSWSC 369 Hamill J | Criminal negligence Victim under 18y Failure to provide | PG (20% plea and assist) | 4y NPP 18m | | minor traffic | Mother failed to remove 12y daughter from danger and obtain medical treatment – aware victim brutally subjected to severe physical abuse over many years by male partner – aware of extent and seriousness of abuse – offender and second daughter also subjected to abuse – failed to obtain medical treatment after threats by partner and fear of losing children although on occasions obtained treatment for herself Suffering batter women's syndrome – PTSD and depression – significantly reduced culpability – onerous effect of custody Male partner sentenced for murder JK [2018] NSWSC 250 |
| 82. | ES (No.2) (33) [2018] NSWSC 1708 McCallum J [2019] NSWCCA 262 | Unlawful and dangerous - assault Victim under 18y Assault - domestic | PG (12%) Sched: AOABH on same victim | 8y NPP 5y | AD | Nil | Shaken baby killing – shook 3-month-old daughter when trying to settle her - sudden loss of self-control in challenging circumstances – impact of offender's PTSD on capacity to manage stresses of early parenting taken into account reducing moral culpability - offence also involved some force Difficult background – refugee from Iran – good character – well regarded – mental health issues - reasonable prospects of rehabilitation |

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|-----|---|---|--|--|---|--|---|
| 83. | AS (22) [2018] NSWSC 930 Fullerton J | Criminal negligence Victim under 18y Failure to provide | PG (50% plea and assistance) | 3y NPP 16m | | | Female - failed to remove 2y 8m daughter from abusive domestic relationship with partner and failed to obtain medical treatment – death of victim caused by assaults of male partner over two days – sustained assaults on child in week before fatal assault – offender also subjected to physical abuse and control by male partner History of sexual and physical abuse at hands of father, step mother and subsequent partners – chronic and complex mental health issues – good character |
| 84. | DF (25; 29 at sentence) [2022] NSWSC 762 Garling J | Victim under 18y Assault – Domestic Unlawful and dangerous - assault | PG (5%) | 14y 3m NPP 10y 8m | | Minor fraud. Not significant. | Female – mother killed own son / child aged 2 years 5 months – death caused by assault – blunt force injuries / trauma using hands or fists to victim’s head, abdomen, chest – multiple internal injuries and bruising – failed to call ambulance or take to hospital when victim appeared unwell. Unable to make any finding as to rehabilitation. |
| 85. | Smith (31) [2022] NSWSC 1651 Wilson J | Criminal negligence Victim under 18y Failure to provide | VG (murder trial – 10% for offer to plead) | 4y 9m NPP 3y 6m | | Lesser offences – breached conditional liberty | Offender failed to fulfil legal duty to assist injured 6m child in his sole care – circumstances and perpetrator of fatal assault on 6m child not established — victim in sole care of offender – partially motivated by concern to avoid police involvement – accelerated victim’s death – affected by drugs Onerous conditions in custody – sentence reduction for efficient trial – willing to give assistance – remorse - prospects of rehabilitation |
| 86. | Davidson [2022] NSWCCA 153 | Motor vehicle Criminal negligence Victim under 18y | PG (25%) 4 x Mansl Agg driving cause GBH 2 x cause bodily harm | <u>Indicative</u> 14y 3m 6y 1y 4m <u>Aggregate</u> 28y NPP 21y | AA <u>Indicative</u> 10y 6m 5y 3m 1y 1m <u>Aggregate</u> 20y NPP 15y | Nil | Drove whilst under influence of drugs and alcohol at excessive speed - lost control of vehicle – mounted kerb, striking seven children from behind, dragging some of them along – four victims killed instantly – three victims injured, one with critical significant brain injuries – gross criminal negligence. Good subjective case – remorse, prospects of rehabilitation, prior good character - ADHD. CCA: sentence manifestly excessive. |

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| 87. | Rudolph (24) [2023] NSWSC 181 RA Hulme J | Unlawful and dangerous - assault Victim under 18y | PG (10%) | 8y NPP 6y | | Possess drugs, damage property. On conditional liberty. | 13-week-old baby – “vigorous” intentional shaking while head unsupported – in relationship with deceased’s aunt – incident occurred whilst caring for victim – had been awake all night having consumed drugs earlier. Drug addiction - deprived and dysfunctional childhood, neglect, physical and emotional abuse, exposure to violence, drugs – reduced moral culpability – no remorse – potential for rehabilitation. |
| 88. | 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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