

## Manslaughter

### Unlawful and Dangerous - Stabbing

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

|    | Case<br>(age if known)  | Type  | Plea | Sentence                 | Appeal                     | Record  | Facts  |
|----|---|---|------|--------------------------|----------------------------|---|--|
| 1. | <b>Taouk</b><br>NSWSC<br>Abadee J<br>28.3.1991<br><br>NSWCCA<br>20.3.1992 | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – general  | PG   | MT 5y<br>AT 2y           | AA<br>MT 3y<br>AT 3y 8m    | nil   | Brawl in night club one week before – on night of killing victim approached offender in hotel and commenced to harass and assault him – stabbed using knife carried for general use, not armed with knife for purpose of violence  |
| 2. | <b>Woolsey</b><br>NSWSC<br>Newman J<br>19.8.1993                          | Unlawful and<br>dangerous – stabbing<br><br>Stabbing – domestic | PG   | 4y GBB                   |                            | nil   | History of domestic violence when victim drunk – offender assaulted during argument with victim - picked up knife to scare victim off and stabbed him  |
| 3. | <b>Fletcher</b><br>NSWSC<br>Newman J<br>20.8.1993                         | Unlawful and<br>dangerous – stabbing<br><br>Stabbing - general  | VG   | MT 4y<br>AT 5y           |                            | serious record -<br>offence<br>committed on<br>parole | During fight with stranger stabbed him twice in chest<br>Much evidence of rehabilitation   |
| 4. | <b>Quinn</b><br>(37)<br>NSWSC<br>Abadee J<br>28.4.1995                    | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic | PG   | MT 1y 1m 20d<br>AT 2y 5m |                            | Minor   | Stabbed brother - using knife to prepare breakfast when argument developed - parried knife in response to punch from victim<br>Both chronically and severely mentally ill - forensic patient at time of sentence - schizophrenic/bi-polar/ chronic schizo affective disorder |
| 5. | <b>MacDonald</b><br>NSWCCA<br>12.12.1995                                  | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – general  | PG   | 5y GBB<br>[PSC 17m]      | Crown AA<br>MT 3y<br>AT 2y | on probation for<br>unlawful<br>wounding              | Stabbed school teacher with fishing knife after altercation with students - students had stolen property - offence spontaneous   |

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|-----|---|---|------|------------------------|------------------------------|-------------------------------|--|
| 6.  | <b>Varagnolo</b><br>NSWSC<br>McInerney J<br>21.3.1996                             | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – domestic | PG   | 2y GBB                 |                              | mal wound but<br>not relevant | Long history of violent relationship with victim,<br>including rape - night of killing violent argument,<br>including assault on offender's young daughter -<br>picked up knife with intention of frightening victim -<br>stabbing occurred when victim moved towards<br>offender<br>Very deprived background – part Aboriginal - stolen<br>generation |
| 7.  | <b>Edwards</b><br>NSWSC<br>Simpson J<br>2.8.1996<br><br>(1996) 90 A Crim R<br>510 | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic | PG   | 3y PD                  | Crown AA<br>MT 18m<br>AT 18m |                               | Female stabbed male lover during argument<br>Care for third party not exceptional circumstances  |
| 8.  | <b>Appleby</b><br>NSWSC<br>Ireland J<br>18.7.1997                                 | Unlawful and<br>dangerous- stabbing<br><br>Stabbing - domestic  | PG   | MT 3y<br>AT 3y         |                              | dishonesty and<br>drugs       | Stabbed brother in fight with kitchen knife - single stab<br>wound - intent to frighten - just woken from deep<br>sleep and responding to argument between brother<br>and girlfriend   |
| 9.  | <b>Lam</b><br>(40)<br>NSWSC<br>Hidden J<br>20.3.1998                              | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic | VG   | MT 3<br>AT 2y          |                              | minor assaults                | Shared house with victim - confrontation about<br>victim's unwelcome advances to offender's girlfriend –<br>victim became aggressive and tried to take up knife -<br>offender grabbed knife first - multiple wounds as fight<br>continued through house  |
| 10. | <b>Bollen</b><br>(1998) 99 A Crim R<br>510  | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic | VG   | MT 4y 3m<br>AT 1y 3m   | AA<br>MT 3y 4m<br>AT 1y 2m   | minor                         | Lived in flat above garage next to victim's house -<br>history of much antagonism - victim and brother<br>verbally abusing offender - victim later approached<br>offender who lunged and stabbed victim - deliberate<br>but reactionary action   |
| 11. | <b>Pham</b><br>(22)<br>NSWSC<br>Hidden J<br>15.5.1998                             | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - general  | PG   | MT 5y<br>AT 3y         |                              | minor - not<br>significant    | Robbed two pedestrians with co-accused - later<br>attempted to rob victim who pulled a knife - struggle<br>ensued and victim stabbed in chest - low range of<br>culpability  |
| 12. | <b>Moore</b><br>NSWCCA<br>16.6.1998   | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – domestic | PG   | MT 2y 11m 21d<br>AT 3y | AD                           | minor                         | Stabbed de facto husband during violent argument -<br>history of violence and alcohol abuse<br>Aboriginal with violent past, including domestic<br>violence - pancreatitis, PTSD, borderline personality<br>disorder - truly remorseful - commenced rehabilitation   |

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| 13. | <b>Kennedy</b><br>(70)<br>NSWSC<br>Greg James J<br>30.6.1998                            | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic   | PG   | 3y GBB                         |        |  | Stabbed 78y husband once in stomach - died fourteen days later<br>Culpability affected by mental conditions including dementia – intoxication – poor health – abused by husband   |
| 14. | <b>PN</b><br>(17)<br>NSWSC<br>Barr J<br>30.10.1998                                      | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Fight - stabbing<br><br>Juvenile offender | PG   | MT 8y<br>AT 4y                 |        | assaults committed in gaol awaiting sentence; on bond at time of offence | Pacific Islander - brother involved in earlier fight with group - armed with knife went back with others to continue fight - stabbed one victim in back and fatally stabbed second victim under influence of alcohol and cannabis<br>Tragic background – mother suicided when offender 2y, then watched sister suicide when 7y – low average intellectual disability  |
| 15. | <b>MHN (No.2)</b><br>(17 at offence – 20 at sentence)<br>NSWSC<br>Kirby J<br>20.11.1998 | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Juvenile offender                         | PG   | FT 4y                          |        |  | Unarmed Vietnamese youth followed from skating rink and attacked by group wielding weapons – picked up knife dropped by assailants and fatally stabbed one male attacker and wounded second male – not aggressor – element of provocation and diminished responsibility<br>Volunteered previously unknown guilt to police – unhappy childhood – suffering depression – sentenced at similar time for murder - <u>MHN</u> NSWSC 29.10.1998 |
| 16. | <b>Lewis</b><br><a href="#">[1999] NSWSC 131</a><br>Sully J                             | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory                                 | PG   | MT 6y<br>AT 3y                 |        | mal wound with w/i GBH – breached bail and parole                        | Member of Rebel Motorcycle Club - helped bouncer remove victim who was being a nuisance at hotel - punched and kicked victim - left scene but other club members continued assault - victim stabbed to death<br>Seriously assaulted in gaol because wife giving evidence - good prospects of rehabilitation   |
| 17. | <b>TM</b><br>(17)<br><a href="#">[1999] NSWSC 504</a><br>Hidden J                       | Unlawful and dangerous - stabbing<br><br>Juvenile offender<br><br>Stabbing - general                         | PG   | MT 3y<br>AT 2y<br>JJ detention |        | not relevant   | Chased victim with friends after confrontation in pub - friends kicked and punched victim to ground - offender stabbed victim in leg causing death<br>Good prospects of rehabilitation, supportive family   |

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|-----|---|--|-------------------------|----------------------|---|------------------------------|---|
| 18. | <b>Bryant</b><br><a href="#">[1999] NSWCCA 181</a>                      | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                         | VG<br>(at murder trial) | MT 6y 6m<br>AT 3y 6m | AD                                      | other offences not specified | During struggle in kitchen victim savagely and brutally stabbed in chest and head - other wounds to body<br>History of heavy drinking - remorse   |
| 19. | <b>Horton</b><br>(53)<br><a href="#">[1999] NSWSC 983</a><br>Studdert J | Unlawful and dangerous - stabbing<br><br>Stabbing - general                          | PG                      | MT 5y<br>AT 3y       |   | minor                        | Female - stabbed friend in heart after heavy drinking<br>Alcoholic with dependent personality disorder  |
| 20. | <b>Nikau</b><br><a href="#">[1999] NSWCCA 322</a>                       | Unlawful and dangerous - stabbing<br><br>Fight - stabbing<br><br>Stabbing - general  | PG                      | MT 8y<br>AT 4y       | AD                                      |                              | Stabbed victim during street fight between two groups<br>- affected by drugs and alcohol<br>Youthful offender   |
| 21. | <b>SMP</b><br>(17)<br><a href="#">[1999] NSWCCA 318</a>                 | Unlawful and dangerous - stabbing<br><br>Juvenile offender<br><br>Stabbing - general | PG                      | MT 4y<br>AT 3y       | AA<br>MT 2y 9m<br>AT 2y 9m<br>Detention | nil                          | Stabbed victim after he attacked offender with knife by surprise – victim suffered mental problems and drug addiction - no suggestion offender carrying knife with intent to injure - no premeditation or ill will  |
| 22. | <b>Wright</b><br>(31)<br><a href="#">[1999] NSWSC 1087</a><br>Bell J    | Unlawful and dangerous - stabbing<br><br>Stabbing - general                          | PG                      | MT 4y<br>AT 3y       |   |                              | Stabbed victim four times in fight outside hotel – victim intoxicated and initiated fight - offender suffering exaggerated sense of danger and carrying knife following assault several weeks earlier - spontaneous offence<br>Good prospects of rehabilitation |
| 23. | <b>Chami</b><br>(20)<br><a href="#">[1999] NSWSC 1268</a><br>Studdert J | Unlawful and dangerous - stabbing<br><br>Fight - stabbing<br><br>Stabbing - general  | PG                      | MT 5y 6m<br>AT 3y    |   | on bail for firearm offences | Stabbed stranger in brawl outside nightclub<br>Contrition, drug user, prospects of rehabilitation   |
| 24. | <b>Naudin</b><br>(39)<br><a href="#">[2000] NSWSC 18</a><br>Dowd J      | Unlawful and dangerous - stabbing<br><br>Stabbing - general                          | PG                      | MT 3y<br>AT 3y       |   | minor                        | Arguing with friend who threatened offender with knife - turned knife back on victim stabbing him in abdomen - immediate remorse - both intoxicated<br>Suffering acute psychotic illness in gaol  |

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|-----|--|--|-------------|----------------------|----------------------------------|---|--|
| 25. | <b>Esposito</b><br>(29)<br><a href="#">[2000] NSWSC 284</a><br>Dunford J | Unlawful and dangerous - stabbing<br><br>Stabbing - general  | PG          | MT 8y<br>AT 4y       |                                  | drug related record - breached recog at time of offence | Female stabbed man she just met at bar - affected by drugs and possibly motivated by robbery<br>Has had some employment – drug and alcohol treatment and counselling in custody  |
| 26. | <b>Sherry</b><br>(38)<br><a href="#">[2000] NSWCCA 35</a>                | Unlawful and dangerous – stabbing<br><br>Stabbing – domestic | VG          | MT 2y 6m<br>AT 2y 6m | Crown AA<br>MT 3y 6m<br>AT 2y 6m | lengthy but minor alcohol related record                | Stabbed de facto wife during violent altercation - stabbed wife below ear<br>History of volatile and violent relationship - alcohol problems   |
| 27. | <b>Kennedy</b><br><a href="#">[2000] NSWSC 109</a><br>Barr J             | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic | PG          | 4y GBB               |                                  |   | Stabbed de facto husband in chest once during confrontation - circumstances of offence unclear but history of extreme and cruel domestic violence - spontaneous offence<br>Genuine remorse – suicidal - violent childhood beaten first by mother then victim   |
| 28. | <b>Kirkwood</b><br>(63)<br><a href="#">[2000] NSWSC 184</a><br>Bell J    | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic | PG          | MT 12m<br>AT 18m     |                                  | minor record  | Aboriginal female had sexual relationship with victim for 4-5 years - violent argument where victim threw stool at offender and threatened her with knife - offender took knife and 'poked' victim in chest. Mildly intellectually handicapped – alcoholic - not prone to violence - health problems - carer for handicapped son.  |
| 29. | <b>Melrose</b><br><a href="#">[2001] NSWSC 847</a><br>McClellan J        | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic | PG          | 4y GBB               |                                  |   | Aboriginal woman stabbed partner during violent argument – victim had assaulted offender earlier in evening – long term domestic violence - isolated by move to another town and became depressed<br>Remorseful and severe psychiatric reaction to killing - significant suicide risk  |
| 30. | <b>Whiting</b><br>(35)<br><a href="#">[2002] NSWSC 827</a><br>Levine J   | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic | PG<br>(33%) | 5y 4m<br>NPP 3y      |                                  | prior violence  | Stabbed de facto wife during domestic dispute - both parties affected by alcohol - victim initiated attack with beer bottle and approached offender with knife - during struggle offender took knife and victim stabbed once<br>Relationship characterised by violence of part of both victim and offender - suffering alcohol dependence and personality disorder - genuine remorse - strict protection |

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| 31. | <b>Waterman</b><br>(30)<br><a href="#">[2002] NSWSC 1236</a><br>Hidden J<br><br><b>Leyman</b><br>(30)<br><a href="#">[2002] NSWSC 1226</a><br>Hidden J | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory | VG<br>(at murder trial – offered to plead)<br><br>PG | 6y<br>NPP 3y 6m<br><br>5y 6m<br>NPP 3y |        | lengthy record but mostly juvenile<br><br>old and brief record | PW became involved in argument with homeless men outside house - returned to argument with co-offender and knife - victim stabbed when impaled self on knife - no intent to kill - history of tension between residents and homeless men<br>PW - intoxicated - offence out of character - good prospects of rehabilitation although needing assistance with alcohol abuse - remorse<br>L – accessory - accompanied co-offender knowing he was armed with knife contemplating it might be used to cause injury - alcohol abuse - good character evidence - remorse |
| 32. | <b>Yeoman</b><br>(43)<br><a href="#">[2003] NSWSC 194</a><br>Buddin J  | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic                 | PG   | 4y GBB                                 |        | Nil  | Stabbed de facto husband of 25 years once in heart - both heavily intoxicated – not fully aware of actions due to effect of intoxication - element of provocation and long history of domestic violence – stabbed victim on previous occasion<br>Prior good character - isolation caused by recent move - grief over recent death of father - effect of imprisonment on 5y old son - genuine remorse - excellent prospects of rehabilitation  |
| 33. | <b>Laures</b><br>(66)<br><a href="#">[2003] NSWSC 785</a><br>Sully J   | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                 | PG   | 8y<br>NPP 5y                           |        | Nil  | Stabbed de facto wife once in chest during fight outside house when victim terminated relationship – called 000 then stabbed himself<br>Diabetic – close relationship with own adult children – special circumstances   |
| 34. | <b>Yu</b><br>(33)<br><a href="#">[2003] NSWSC 1153</a><br>Wood CJ at CL  | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                 | PG   | 5y<br>NPP 2y 6m                        |        | Nil  | Illegal immigrant from Korea – became involved in physical fight with acquaintance at offender's home – double stab wounds to abdomen – no intent to stab – also struck victim to head five times with golf clubs – intoxication aggravated by extreme sleep deprivation - victim aggressive and threatening and refused to leave house<br>Vulnerable – good character evidence – isolation in gaol – high prospects of rehabilitation  |

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|-----|---|--|-------------|--|--------------------------|--|--|
| 35. | <b>Battur</b><br>(22)<br><a href="#">[2003] NSWSC 1164</a><br>Greg James J  | Unlawful and dangerous - stabbing<br><br>Stabbing – general                  | PG<br>(25%) | 6y 3m<br>NPP 2y 9m<br>(PSC 3m)         |                          | Nil  | Mongolian offender and victim – argument over failure of offender to show proper respect – threats and physical assault by victim – armed self with knife for self-defence – met again later in evening and threats / assaults continued – stabbed victim in chest - element of provocation and self defence<br>Co-operation and contrition – onerous custodial conditions – strong prospects of rehabilitation – facing reprisals in Mongolia   |
| 36. | <b>Vongsouvanh</b><br>(28)<br><br><b>Namalaauulu</b><br>(24)<br><br><a href="#">[2003] NSWSC 1203</a><br>Whealy J<br><br><a href="#">[2004] NSWCCA 158</a><br><br>Co-offender:<br>HAYES | Unlawful and dangerous – stabbing<br><br>Stabbing – general<br><br>Accessory | PG<br>(15%) | 6y 9m<br>NPP 4y<br><br>6y 9m<br>NPP 4y | Crown AD<br><br>Crown AD | Drug related offences<br><br>Lesser record | 2 females became involved with third co-offender in struggle with fellow male drug user – not aware co-offender had knife prior to struggle – continued involvement after production of knife – victim stabbed 4 times in stomach – offenders prevented victim defending self or escaping then ran away and left him KV – born in Laos – mother of young child – some evidence of rehabilitation from drug addiction<br>FN – born in Samoa – mother of young child – some evidence of rehabilitation from drug addiction |
| 37. | <b>Mercy</b><br><a href="#">[2004] NSWSC 472</a><br>Adams J   | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic                 | PG<br>(25%) | 4y 1m<br>NPP 2y 3m<br>(3m PSC)         |                          | Nil  | Female - stabbed de facto in back – intent to frighten – seeking to make stand in context of continuing physical and sexual abuse<br>Aboriginal with deprived, violent and sexually abusive childhood – serious drinking problem — diabetic – recent coronary by-pass surgery – 8 children, including one with victim – never been in paid employment  |

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| 38. | <b>Forbes</b><br>(29)<br><a href="#">[2004] NSWSC 421</a><br>Hulme J<br><br>(2005) 160 A Crim R 1<br><a href="#">[2005] NSWCCA 377</a> | <u>Manslaughter One</u><br>Unlawful and dangerous - stabbing<br><br>Fight - stabbing<br><br>Stabbing – general<br><br>Accessory<br><br><u>Manslaughter Two</u><br>Excessive self defence<br><br>Shooting – general | PG<br>(12%)<br>Manslaughter<br><br><br><br>VG<br>Manslaughter<br>(at murder trial - 12% for offer to plea) | 12y<br>NPP 9y<br><br><br><br>12y<br>NPP 8y<br><br><u>Total:</u><br>19y<br>NPP 15y | AA<br>9y<br>NPP 6y 9m<br><br><br>12y<br>NPP 8y<br><br><u>Total:</u><br>16y 9m<br>NPP 12y 9m | Lengthy record – breached parole          | Involved in fight outside hotel – male stabbed by friend of offender – aware friends intoxicated and had knife – aware risk knife would be used<br>3 months later took loaded gun to confront male acquaintance over disputed issues – aware victim violent – shot victim in caravan in subsequent struggle – second shot fired while victim on or near floor – intent to kill<br>Low prospects of rehabilitation |
| 39. | <b>V D N</b><br>(17)<br><a href="#">[2004] NSWSC 426</a><br>Whealy J   | Unlawful and dangerous - stabbing<br><br>Juvenile offender<br><br>Stabbing – general<br><br>Accessory  | PG<br>(15%)<br>Manslaughter<br><br>Att AR  | 6y 9m<br>NPP 3y<br><br>FT 15m<br>(concurrent)                                     |   | Drug offences                             | Involved in attempted robbery on Asian couple leaving store with daily takings – assaulted and detained female with knife – male assaulted by two co-offenders and fatally stabbed in chest – 2 shots fired into rear tyre by co-offender – aware knife would be presented during robbery<br>Evidence of rehabilitation from drug abuse – genuine remorse   |
| 40. | <b>Price</b><br>(29)<br><a href="#">[2004] NSWSC 868</a><br>Barr J   | Excessive self defence<br><br>Unlawful and dangerous - stabbing<br><br>Stabbing - general  | PG   | 8y<br>NPP 5y  |   | Significant, incl 4 offences with a knife | Stabbed drug dealer – plea accepted but not wholly clear whether excessive self-defence or unlawful and dangerous act – habitually carried a knife<br>Aboriginal – previous alcohol problems – on methadone program but continues to use heroin from time to time – prospects of rehabilitation   |



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| 41. | <b>Hayes</b><br>(26)<br><a href="#">[2004] NSWSC 1195</a><br>Campbell AJ<br><br>Co-Accused:<br>VONGSOUVANH<br>NAMALAUULU        | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory         | PG  | 6y 9m<br>NPP 4y  |          | Minor record –<br>similar to<br>Namalauulu | Female – involved with two other females in struggle<br>with fellow male drug user – victim stabbed 4 times in<br>stomach - unable to establish who did stabbing<br>Difficulty as aboriginal child adopted by non-<br>indigenous family – drug addiction – protective<br>custody – good prospects of rehabilitation  |
| 42. | <b>JD</b><br><a href="#">[2005] NSWSC 128</a><br>Levine J<br><br>(2006) 160 A Crim R<br>392<br><a href="#">[2006] NSWCCA 31</a> | Unlawful and<br>dangerous - stabbing<br><br>Juvenile offender<br><br>Stabbing - general | VG<br>(at murder<br>trial – 25% for<br>offer)<br>Manslaughter<br><br>AR | 5y 3m<br>NPP 3y<br><br>4y 1m<br>NPP 3y<br>(concurrent)                                   | Crown AD | Nil  | With brother planned armed robbery of family<br>attempting to sell diamond engagement ring – during<br>struggle son fatally stabbed and father stabbed in<br>chest by co-offender<br>Excellent prospects of rehabilitation – low intelligence<br>– poor health   |
| 43. | <b>Hamshere</b><br><a href="#">[2005] NSWSC 1319</a><br>Hall J  | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - general                          | PG<br>(25%)   | 5y<br>NPP 3y   |          | Minor assault                              | Friendly wrestle between male friends became more<br>heated – offender picked up knife from kitchen and<br>stabbed victim in neck – intoxicated<br>Great remorse   |
| 44. | <b>Jukes</b><br>(20)<br><a href="#">[2006] NSWSC 1065</a><br>Hoeben J<br><br><a href="#">[2008] NSWSC 126</a><br>Hoeben J       | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic                         | PG  | 2y<br>NPP 12m<br>suspended<br><br>On breach of<br>suspended<br>sentence<br>2y<br>NPP 12m |          | Nil  | Female – stabbed mother's boyfriend during<br>confrontation in kitchen – instinctive act – single stab<br>wound – low range culpability<br>Unfortunate background – mother to 5 children –<br>youngest child disabled – immediate remorse – 90d<br>PSC – 2y 6m rigorous reporting<br>Sentence subsequently breached after commission of<br>further offence of BES, failure to comply with reporting<br>and counselling conditions and continued<br>amphetamine addiction – pregnant at time of re-<br>sentence |

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| 45. | <b>Cavanough</b><br>(22)<br><a href="#">[2007] NSWSC 561</a><br>Whealy J   | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                 | VG<br>(at murder trial – 10% for offer) | 8y 2m<br>NPP 5y    |        |                                | Female stabbed male de facto during domestic argument – spontaneous act – element of provocation – history of disputes – suffering depression and anxiety<br>Aboriginal with deprived and violent childhood – sexual abuse – drug and alcohol addiction – functioning at borderline level – mother to 2y child – remorse – prospects of rehabilitation  |
| 46. | <b>Lu</b><br>(32)<br><a href="#">[2007] NSWSC 1259</a><br>Price J<br><br>(2008) 190 A Crim R 109<br><a href="#">[2008] NSWCCA 261</a>          | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory | PG<br>(15%)                             | 9y 4m<br>NPP 6y 2m | AD     | Lengthy – breached bond        | One month before offence had violent confrontation with victim - on day of offence saw victim walking down street - collected co-offender and chased victim with iron bar – struck victim's mother then punched victim in face – co-offender fatally stabbed victim – unaware co-offender armed with knife - intended only to assault – co-offender acquitted at murder trial<br>Vietnamese with traumatic background |
| 47. | <b>Harris</b><br>(53)<br><a href="#">[2007] NSWSC 1417</a><br>Bell J   | Unlawful and dangerous - stabbing<br><br>Stabbing - general                  | PG<br>(12%)                             | 7y<br>NPP 4y       |        | Minor – drink driving offences | Stabbed female friend during argument – lashed out with knife striking victim in chest – both intoxicated<br>History of alcohol abuse – remorse – good prospects of rehabilitation  |
| 48. | <b>York</b><br>(31)<br><a href="#">[2007] NSWSC 1470</a><br>Adams J  | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                 | PG<br>(20%)                             | 5y<br>NPP 3y       |        |                                | Stabbed male during argument with neighbours in caravan park – element of self-defence – impulsive offence – holding knife in hand because using it as eating utensil – low culpability<br>Good character – prospects of rehabilitation – citizen of UK   |
| 49. | <b>Ibrahim</b><br>(27)<br><a href="#">[2008] NSWSC 268</a><br>Price J<br><br><a href="#">[2009] NSWCCA 15</a><br><br>Co-offenders:<br>KR<br>PR | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory | PG<br>(15%)                             | 9y 4m<br>NPP 6y 6m | AD     | Priors – breached bail         | Victim and brother lured to car park to discuss dispute – four men assaulted victim – victim stabbed in leg by co-offender causing death – aware of presence of knife – agreement to assault causing less than GBH – premeditated offence – joint criminal enterprise<br>Difficult childhood  |

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|     | Case<br>(age if known)  | Type  | Plea  | Sentence                                     | Appeal | Record  | Facts   |
|-----|---|---|---|--|--------|---|---|
| 50. | <b>Sin</b><br>(20)<br><a href="#">[2008] NSWSC 621</a><br>McClellan CJ at CL  | Unlawful and dangerous - stabbing<br><br>Fight - stabbing<br><br>Stabbing - general | PG<br>(12.5%)   | 10y 6m<br>NPP 7y                             |        | Driving offences and involvement in brawl   | Fight outside shopping centre between Lebanese and Asian groups – offender stabbed male in side with cheese knife – no intent to inflict deep wounds<br>Genuine remorse – Cambodian – prospects of rehabilitation   |
| 51. | <b>Kennedy</b><br>(40)<br><a href="#">[2008] NSWSC 703</a><br>Fullerton J   | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                        | VG<br>(at murder trial – offered to plead)  | 6y<br>NPP 4y                                 |        | Minor   | Trivial argument with flatmate – struck back of head with heavy implement and stabbed once to back – no provocation – several acts of violence – no intent as result of intoxication (alcohol, drugs and pre-existing brain damage) – body found in unit after 27 days<br>Long term user of illegal drugs – genuine remorse – good prospects of rehabilitation  |
| 52. | <b>KR</b><br>(25)<br><br><b>PR</b><br>(21)<br><a href="#">[2008] NSWSC 970</a><br>Price J<br><br>Co-offender<br>IBRAHIM | Unlawful and dangerous - stabbing<br><br>Stabbing – general<br><br>Accessory        | PG<br>(50% plea and assist)<br><br>PG<br>(50% plea and assist)<br><br>Sched:<br>Assault | 5y 2m<br>NPP 3y 7m<br><br>5y 2m<br>NPP 3y 7m |        | AOABH and intimidate police – not agg factor<br><br>Intimidate police – not significant | Victim and brother lured to car park to discuss dispute – four men assaulted victim – victim stabbed in leg by co-offender causing death – aware of presence of knife – agreement to assault causing less than GBH – pre-planned offence – PK punched victim's brother<br>Difficult childhood – remorse – good prospects of rehabilitation – unlikely to reoffend – valuable assistance in unrelated matter – protective custody and witness protection |
| 53. | <b>Stewart</b><br>(30)<br><a href="#">[2008] NSWSC 1359</a><br>Mathews AJ   | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic                        | VG<br>(at murder trial – 15%)   | 6y 4m<br>NPP 4y                              |        | Nil   | Stabbed husband during argument at home – spontaneous offence – combination of personality disorder and intoxication meant no required intent – victim stabbed outside 16y son's bedroom - volatile relationship<br>Difficult and abusive childhood resulting in personality disorder and substance abuse – attempted suicide many times  |

|     | Case<br>(age if known)   | Type  | Plea                    | Sentence           | Appeal | Record   | Facts   |
|-----|--|---|-------------------------|--------------------|--------|--|---|
| 54. | <b>Hatch</b><br><a href="#">[2008] NSWSC 1411</a><br>Adams J         | Unlawful and dangerous - stabbing<br><br>Stabbing - general                 | VG<br>(at murder trial) | 5y 6m<br>NPP 2y 6m |        | Priors –<br>breached bond                            | Stabbed male acquaintance during struggle – during earlier fight victim punched and kicked offender to unconsciousness – several hours later victim entered house containing offender and two friends armed with knife and iron pipe – co-offender stabbed and seriously wounded by victim – during subsequent struggle offender used knife to fatally stab victim - elements provocation and aggression – all parties intoxicated – co-offenders sentenced for AOABH in company – lower end of seriousness<br>Difficult childhood – drug and alcohol abuse – remorse – prospects of rehabilitation |
| 55. | <b>Jackson</b><br><a href="#">[2009] NSWSC 168</a><br>Howie J        | Unlawful and dangerous- stabbing<br><br>Stabbing – general<br><br>Accessory | PG<br>(15%)             | 8y<br>NPP 5y 6m    |        | Lengthy record<br>– breached parole                  | Involved in armed robbery of restaurant with co-offender – co-offender entered restaurant armed with club lock from stolen car and stabbed employee during struggle – offender waited outside in car then entered to take cash register – foresaw use of weapon to inflict injury only<br>Aboriginal with deprived upbringing – drug addiction – protection – genuine remorse<br>Co offender sentenced for murder – <a href="#">Webb [2008] NSWSC 1351</a>  |
| 56. | <b>Mills</b><br>(40)<br><a href="#">[2009] NSWSC 521</a><br>Howie J  | Unlawful and dangerous - stabbing<br><br>Stabbing - general                 | PG                      | 7y 3m<br>NPP 4y 6m |        | Old assault offences –<br>more recent minor offences | Stabbed 44y male acquaintance during argument in kitchen of mutual friend – one stab to chest – intoxicated and under influence of drugs<br>Genuine remorse   |
| 57. | <b>Doolan</b><br>(43)<br><a href="#">[2010] NSWSC 615</a><br>Grove J | Unlawful and dangerous – stabbing<br><br>Stabbing - domestic                | PG<br>(20%)             | 6y<br>NPP 3y 9m    |        | Minor record –<br>alcohol related                    | Aboriginal female stabbed partner – volatile relationship characterised by alcoholism and violence – both intoxicated – chased victim with knife who responded in joking manner – stabbed once in chest – failed to appreciate dangerous nature of knife – lower end of scale of seriousness<br>Distress and remorse – reasonably good prospects of rehabilitation  |

|     | Case<br>(age if known)  | Type  | Plea                                      | Sentence  | Appeal                   | Record  | Facts  |
|-----|---|---|---|---|--------------------------|---|--|
| 58. | <b>Horton</b><br>(27)<br><a href="#">[2010] NSWSC 1007</a><br>Davies J  | Excessive self defence<br><br>Unlawful and dangerous – stabbing<br><br>Stabbing - general   | PG<br>(15%)                               | 4y 3m<br>NPP 2y   |                          | Record including violence – breached bond for assault offence | Stabbed victim with victim's knife during drug deal – victim first stabbed offender three times leaving knife in shoulder – stabbed once only - element of provocation – unlawful and dangerous act – bottom of range – disposed of victim's car keys<br>Drug and alcohol addiction – depression – genuine remorse   |
| 59. | <b>Duncan</b><br>(44)<br><a href="#">[2010] NSWSC 1241</a><br>Hidden J  | Unlawful and dangerous – stabbing<br><br>Stabbing - domestic  | PG<br>(15%)                               | 3y<br>NPP 1y 4m   |                          | Minor – PCA offences  | Female stabbed partner once in abdomen – victim came home from party, pushed offender out of bed and started argument over text message – offender grabbed knife in fear victim would continue assault – impulsive response in heat of argument - history of physical and verbal abuse – immediate remorse<br>Excellent work record in welfare area – excellent prospects of rehabilitation  |
| 60. | <b>West</b><br>(18)<br><a href="#">[2011] NSWCCA 91</a>   | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic  | PG<br>(25%)                               | 6y<br>NPP 2y  | Crown AA<br>6y<br>NPP 3y | Children's Court – dishonesty, AOABH, driving                 | Stabbed girlfriend's brother during drunken argument at family gathering – single blow with scissors in heat of moment – not particularly forceful blow<br>Intellectual disability – alcohol and cannabis abuse – just turned 18y  |
| 61. | <b>Quealey</b><br>(29)<br><a href="#">[2011] NSWSC 42</a><br>Hall J   | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic  | VG<br>(at murder trial)                   | 6y<br>NPP 3y 6m   |                          | Record - breached bond  | Stabbed de facto husband in thigh during argument – single stab - victim behaved in aggressive manner – unplanned offence<br>Both had chronic substance abuse problems – difficult and abusive childhood   |
| 62. | <b>Pirini</b><br>(21)<br><a href="#">[2011] NSWSC 1395</a><br>RA Hulme J<br><br>Co-offenders:<br>LA ROSA<br>AOULI<br>COSTA<br>MENZIES<br>HAWI | Accessory<br><br>Stabbing – general<br><br>Assault – general<br><br>Fight – assault / stabbing<br><br>Unlawful and dangerous – assault / stabbing | PG<br>(20%)<br>Manslaughter<br><br>Affray | 6y<br>NPP 3y<br><br>FT 2y 2m<br><br><u>Total:</u><br>6y 6m<br>NPP 3y 6m |                          | Driving offences  | 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<br>Left Club - good prospects of rehabilitation – remorse |

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|     | Case<br>(age if known)  | Type  | Plea                                      | Sentence  | Appeal | Record  | Facts   |
|-----|---|---|---|---|--------|---|---|
| 63. | <b>Bugmy</b><br>(27)<br><a href="#">[2011] NSWSC 357</a><br>McCallum J  | Unlawful and dangerous - stabbing<br><br>Stabbing - domestic  | PG<br>(25%)                               | 8y 3m<br>NPP 5y 6m  |        | Breached parole for mal wounding of different de facto partner – appalling record of violence against de facto partners | Stabbed de facto partner in back – heavily intoxicated – use of weapon<br>Drinking problem – breached condition of parole not to drink – breached apprehended violence order - psychosocial deprivation - alcohol and cannabis dependence including four-year history of petrol sniffing - very low intelligence  |
| 64. | <b>Winefield</b><br>(45)<br><a href="#">[2011] NSWSC 337</a><br>Fullerton J   | Unlawful and dangerous – stabbing<br><br>Stabbing - general   | VG<br>(at murder trial)                   | 10y<br>NPP 7y 6m  |        | Prior record for violence   | Stabbed 18y male stranger in chest during fight on street – both intoxicated – offender was aggressor at all times and wielded knife – victim killed in presence of friends aged below 18y – use of knife an aggravating factor   |
| 65. | <b>La Rosa</b><br>(37)<br><a href="#">[2011] NSWSC 1394</a><br>RA Hulme J<br><br>Co-offenders:<br>PIRINI<br>AOULI<br>COSTA<br>MENZIES<br>HAWI | Accessory<br><br>Stabbing - general<br><br>Assault – general<br><br>Fight – stabbing / assault<br><br>Unlawful and dangerous – assault / stabbing | PG<br>(15%)<br>Manslaughter<br><br>Affray | 6y 7m<br>NPP 3y 3m<br><br>FT 2y 4m<br><br><u>Total:</u><br>7y 1m<br>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<br>Left Club - good prospects of rehabilitation - remorse |

|     | Case<br>(age if known)   | Type  | Plea  | Sentence  | Appeal | Record                                   | Facts  |
|-----|--|---|---|---|--------|--|--|
| 66. | <b>Aouli</b><br>(28)<br><a href="#">[2011] NSWSC 1393</a><br>RA Hulme J<br><br><a href="#">[2012] NSWCCA 104</a><br><br>Co-offenders:<br>PIRINI<br>COSTA<br>LA ROSA<br>MENZIES<br>HAWI | Accessory<br><br>Stabbing - general<br><br>Assault – general<br><br>Fight – stabbing / assault<br><br>Unlawful and dangerous – assault / stabbing | PG<br>(12.5%)<br>Manslaughter<br><br>Affray | 5y 8m<br>NPP 3y<br><br>FT 2y 5m<br><br><u>Total:</u><br>6y 2m<br>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<br>Left Club - good prospects of rehabilitation – remorse – good employment history                                       |
| 67. | <b>Costa</b><br>(29)<br><a href="#">[2011] NSWSC 1392</a><br>RA Hulme J<br><br>Co-offenders:<br>PIRINI<br>AOULI<br>LA ROSA<br>MENZIES<br>HAWI  | Accessory<br><br>Stabbing - general<br><br>Assault – general<br><br>Fight – stabbing / assault<br><br>Unlawful and dangerous – assault / stabbing | PG<br>(12.5%)<br>Manslaughter<br><br>Affray | 6y 7m<br>NPP 3y 4m<br><br>FT 2y 4m<br><br><u>Total:</u><br>7y 1m<br>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<br>Left Club - good prospects of rehabilitation – remorse – good work ethic – married with two children |

|     | Case<br>(age if known)  | Type  | Plea  | Sentence  | Appeal | Record  | Facts  |
|-----|---|---|---|---|--------|---|--|
| 68. | <b>Barghachoun</b><br>(21)<br><a href="#">[2011] NSWSC 1534</a><br>Johnson J<br><br>Co-offender:<br>AH<br>SMITH   | Accessory<br><br>Fight - stabbing<br><br>Stabbing – general<br><br>Unlawful and dangerous - stabbing  | PG<br>(20%)                                     | 4y<br>NPP 2y 3m   |        | Short record                                    | Involved in fight between two groups of youths and men at night – responded to call for assistance and attended scene armed with metal pole and expecting fight - male from second group stabbed in chest – offender not aware of knife nor of stabbing until group left scene – unlawful and dangerous act was affray<br>Good prospects of rehabilitation - remorse   |
| 69. | <b>AH</b><br>(16)<br><a href="#">[2011] NSWSC 1535</a><br>Johnson J<br><br><a href="#">[2013] NSWCCA 32</a><br><br>Co-offender:<br>BARGHACHOUN<br>SMITH | Accessory<br><br>Fight - stabbing<br><br>Stabbing – general<br><br>Juvenile offender<br><br>Unlawful and dangerous - stabbing                     | PG<br>(20%)                                     | 4y<br>NPP 2y  | AD     | Record –<br>breached bond                       | An instigator of fight between two groups of youths and men at night – agreed to several confrontations – continuing argument with male from second group – called for assistance and attended scene armed with metal pole and expecting fight - male from second group stabbed in chest – offender not aware of knife nor of stabbing until group left scene – unlawful and dangerous act was affray<br>Immaturity  |
| 70. | <b>Menzies</b><br>(26)<br><a href="#">[2012] NSWSC 158</a><br>RA Hulme J<br><br>Co-offenders:<br>PIRINI<br>AOULI<br>LA ROSA<br>COSTA<br>HAWI            | Accessory<br><br>Stabbing - general<br><br>Assault – general<br><br>Fight – stabbing / assault<br><br>Unlawful and dangerous – assault / stabbing | PG<br>(15%)<br>Manslaughter<br><br>VG<br>Affray | 7y 2m<br>NPP 3y 8m<br><br>3y<br><br><u>Total:</u><br>7y 8m<br>NPP 4y 2m |        | Two incidents<br>of violence in<br>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<br>Aboriginal - left Club - good prospects of rehabilitation – genuine remorse |



|     | Case<br>(age if known)  | Type  | Plea                                 | Sentence         | Appeal | Record                    | Facts  |
|-----|---|---|--------------------------------------|------------------|--------|---------------------------|--|
| 71. | <b>JC</b><br>(17)<br><a href="#">[2012] NSWSC 1393</a><br>Barr AJ   | Unlawful and dangerous - stabbing<br><br>Juvenile offender<br><br>Stabbing – domestic<br><br>Victim under 18y | PG<br>(modest)                       | 5y 6m<br>NPP 3y  |        | nil                       | Female – stabbed 16y brother of de facto at offender's flat – reason for killing unclear – spontaneous offence<br>Troubled background – drug and mental health problems – probably in dissociative state at time of killing – remorse – chronic physical illness   |
| 72. | <b>Brown</b><br>(20)<br><a href="#">[2013] NSWSC 715</a><br>Grove AJ  | Unlawful and dangerous - stabbing<br><br>Stabbing general<br><br>Accessory                                    | VG<br>(murder trial)                 | 5y<br>NPP 3y     |        | Reckless GBH              | With three co-offenders confronted victim over belief offender had damaged prized motor vehicles – victim arrived armed with gun and discharged shots – all offenders chased and assaulted victim – co-offender inflicted stab wound – element of provocation – offender acted with no intent to cause GBH<br>Aboriginal – deprived upbringing – mild intellectual disability<br>Co-offenders sentenced for murder   |
| 73. | <b>Phanekham No.3</b><br>(36)<br><a href="#">[2014] NSWSC 508</a><br>Beech-Jones J<br><br><a href="#">[2015] NSWCCA 295</a> | Unlawful and dangerous - stabbing<br><br>Stabbing - general   | VG<br>(murder trial - 10% for offer) | 8y<br>NPP 6y     | AD     | assault,<br>possess drugs | Stabbed victim in abdomen following confrontation – victim intoxicated and argumentative   |
| 74. | <b>Robertson</b><br>(44)<br><a href="#">[2014] NSWSC 1401</a><br>Harrison J<br><br><a href="#">[2015] NSWCCA 251</a>        | Unlawful and dangerous - stabbing<br><br>Accessory<br><br>Stabbing – general<br><br>Victim under 18y          | PG<br>(15%)                          | 10y 8m<br>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<br>Rehabilitation prospects – good family support – no previous violence<br>Co-offender sentenced for murder: McArthur <a href="#">[2014] NSWSC 1401</a> |

|     | Case<br>(age if known)  | Type   | Plea  | Sentence           | Appeal | Record   | Facts  |
|-----|---|--|---|--------------------|--------|--|--|
| 75. | <b>Hawi</b><br>(28)<br><a href="#">[2015] NSWSC 206</a><br>Hoeben CJ at CL<br><br>Co-offenders:<br>PIRINI<br>COSTA<br>LA ROSA<br>MENZIES<br>AOULI | Stabbing – general<br><br>Assault - general<br><br>Accessory<br><br>Fight – stabbing /<br>assault<br><br>Unlawful and<br>dangerous – stabbing<br>/ assault | PG<br>(17.5%)                                       | 6y 2m<br>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<br>Good prospects of rehabilitation – good family support |
| 76. | <b>Wang</b><br>(23)<br><a href="#">[2016] NSWSC 222</a><br>RS Hulme AJ  | Unlawful and<br>dangerous - stabbing<br><br>Stabbing – domestic  | VG<br>(murder trial –<br>17.5% for<br>offer)        | 6y 6m<br>NPP 4y 6m |        | Nil relevant   | Good friend of victim and shared unit – after night of drinking in unit with friends argued with victim – retrieved knife from room and fatally stabbed victim in leg – cause of argument unclear<br>Genuine remorse   |
| 77. | <b>Chapman</b><br>(20)<br><a href="#">[2018] NSWSC 1741</a><br>Harrison J   | Unlawful and<br>dangerous - stabbing<br><br>Stabbing - domestic  | PG<br>(25%)   | 6y<br>NPP 3y       |        | nil  | Father disconnected internet and attempted to remove cables from computer to stop son playing computer games and come to dinner – stabbed father once in shoulder –spontaneous offence – offender picked up knife from bench beside bed – low culpability due to autism spectrum disorder and depression – difficult relationship with father<br>Immediate admission to offence – difficulty in prison – need for long parole period – support of mother   |
| 78. | <b>Rossi-Murray</b><br>(30)<br><a href="#">[2019] NSWSC 482</a><br>Rothman J  | Stabbing – general<br><br>Unlawful and<br>dangerous - stabbing   | VG<br>(murder trial -<br>15% for offer<br>to plead) | 11y<br>NPP 7y 4m   |        | Significant -<br>wound with<br>intent GBH -<br>agg BES –<br>breached<br>parole | During confrontation regarding money owed by victim to offender over drug transaction chased victim and stabbed in chest - above mid-range of seriousness, although not well in excess.<br>Aboriginal offender – institutionalised – early exposure to violence and drugs and social exclusion – strong subjective circumstances – strong chance of rehabilitation – special circumstances   |

|     | Case<br>(age if known)   | Type   | Plea  | Sentence                                      | Appeal                    | Record   | Facts  |
|-----|--|--|---|---|---------------------------|--|--|
| 79. | <b>LK</b><br>(38)<br><a href="#">[2019] NSWSC 605</a><br>Hamill J<br><br>Co-offenders:<br>FEROZ<br>NGUYEN<br>TRINH   | Stabbing – general<br><br>Unlawful and dangerous - stabbing<br><br>Accessory | PG<br>(50% combined)  | 5y<br>NPP 2y 9m                               |                           | Not significant                                | Drug deal gone wrong – joint criminal enterprise - organised and brutal attack – acted as driver to five co-accused - limited role in offence.<br>Special circumstances – first time custody - extensive long-standing drug dependence – reasonably good character - no previous offences of violence – remorse – good prospects of rehabilitation<br>Co-offenders HO and HOANG sentenced for murder (2020)  |
| 80. | <b>McDonald</b><br>(59)<br><a href="#">[2019] NSWSC 858</a><br>Harrison J  | Unlawful and dangerous - stabbing<br><br>Stabbing – domestic                 | VG<br>(murder trial)  | 6y<br>NPP 3y                                  |                           | Modest - no offence since 2004 – AOABH in 1991 | Killed brother - single stab wound to chest during argument – intent to frighten - no intent to kill or cause serious injury - amount of force not significant – impulsive offence - consumption of alcohol - well towards bottom of range of objective seriousness.<br>Indigenous with disadvantaged background – remorse - excellent prospects rehabilitation  |
| 81. | <b>Martinez</b><br>(21 at offence - 26 at sentence)<br><br><b>Tortell</b><br>(18 at offence - 24 at sentence)<br><br><a href="#">[2022] NSWSC 267</a><br>Johnson J<br><br>(Martinez)<br><a href="#">[2022] NSWCCA 12</a> | Stabbing – general<br><br>Accessory<br><br>Unlawful and dangerous - stabbing | VG<br>(at murder trial – 10% for offer)<br><br>VG<br>(at murder trial - 5% for offer) | 10y 6m<br>NPP 7y 7m<br><br>8y 5m<br>NPP 5y 6m | AA<br>9y 3m<br>NPP 6y 11m | Intimidate police, AOABH<br><br>Nil            | Stabbing of victim - joint criminal enterprise to cause harm short of GBH - inability to find beyond reasonable doubt which offender killed victim – prior animosity between M and victim – M confronted victim, victim retreated and both offenders chased victim – T did not have motive but followed M<br>M: higher objective gravity and moral culpability - reasonable prospects of rehabilitation – moderate risk reoffending<br>T: good prospects of rehabilitation - low risk of reoffending<br>CCA Martinez: error as to guilty plea discount of 5% - correct discount 10% applied. |

|     | Case<br>(age if known)                       | Type                              | Plea  | Sentence            | Appeal | Record  | Facts   |
|-----|--|-----------------------------------|---|---------------------|--------|---|---|
| 82. | <b>Feroz</b><br>(31)                         | Stabbing – general                | VG<br>(at murder trial)<br>Manslaughter                 | 9y<br>NPP 6y        |        | nil relevant                                    | Co-offender arranged meeting with victim in suburban street in broad daylight after victim failed to pay for drugs – victim assaulted by group of men then stabbed fatally in chest – joint criminal enterprise to inflict unlawful violence – offence aggravated by use of weapon                                |
|     |  | Accessory                         |   |                     |        |   | All offenders entitled to benefit for facilitation of trial under s.22A and delay   |
|     |  | Unlawful and dangerous - stabbing | s.166<br>certificate<br>firearms<br>offences            | 12m<br>(concurrent) |        |   | F – drug user who was unaware of purpose of meeting – unaware violence or knife would be used until saw stabbing – struck victim with curtain rod – attempted to stop co-offender stabbing victim – called ambulance –supportive family and employer – excellent prospects of rehabilitation                      |
|     | <b>Nguyen</b><br>(38)                        |                                   | VG<br>(at murder trial)<br>Manslaughter                 | 9y<br>NPP 6y        |        | serious but old offences                        | N – drug user with no involvement in planning and no act of violence during assault – aware violence to be used after getting into car – aware weapons to be used after getting out of car but not aware of knife – genuine remorse – good prospects of rehabilitation – PTSD from background and shooting in bar |
|     | <b>Trinh</b><br>(36)                         |                                   | VG<br>(at murder trial – 10% for offer)<br>Manslaughter | 9y<br>NPP 6y 9m     |        | record<br>reflective of<br>being drug<br>dealer | T – out of pocket due to drug deal – played role in setting up meeting – played no part in violence – mid-level drug dealer and user – abusive childhood and exposed to criminal element early in life – prospects of rehabilitation  |
|     | <a href="#">[2020] NSWSC 341</a><br>Hamill J |                                   |   |                     |        |   | Additional co-offenders HO and HOANG sentenced for murder (2020)  |
|     | Co-offender:<br>LK                           |                                   |   |                     |        |   |   |

|     | Case<br>(age if known)   | Type   | Plea   | Sentence  | Appeal | Record  | Facts   |
|-----|--|--|--|---|--------|---|---|
| 83. | <b>Azzi (No 1)</b><br>(43)<br><a href="#">[2020] NSWSC 988</a><br>Walton J | Unlawful and dangerous - stabbing<br><br>Stabbing - general                                | VG<br>(at murder trial)<br>Manslaughter<br><br>s.33B(1)(a)<br><br>Sched:<br>3 offences | 8y<br>NPP 7y 3m<br><br>4y<br>NPP 3y 9m<br><br><b>Total:</b><br>11y<br>NPP 8y 3m |        | lengthy – possess firearms, dishonesty, resist/ assault police, threaten witnesses, pervert course of justice, numerous violence, affray (prison riot), infliction GBH, AOABH | Stabbed male victim in chest/heart – victim and companion attended offender's home regarding money owed by friend – left premises when offender emerged with knife – companion armed himself with timber pieces to defend himself – offender lunged at companion - stabbed victim who was running to assist - not merely acting spontaneously or impulsively but with deliberate and aggressive act.<br>Using methylamphetamine or other drug at or about time of offences  |
| 84. | <b>Tailford (No. 2)</b><br><a href="#">[2021] NSWSC 695</a><br>Rothman J   | Stabbing – general<br><br>Unlawful and dangerous - stabbing                                | Verdict not guilty of murder<br><br>PG<br>Manslaughter (25%)                           | 7y 6m<br>NPP 4y 3m  |        | Larceny - destruction property, contravention AVO – drive disq – give false name – drive recklessly – assault – breached ICO  | Offender extremely intoxicated – victim tried to prevent offender from driving vehicle, punched offender – offender obtained carving fork, inflicted wound nicking aorta causing heart to stop - purpose for which offender obtained carving fork was not to injure victim but to “scare off” anyone seeking to stop offender from leaving in car – not planned or organised - handed himself into police and accepted responsibility.<br>Aboriginal – remorse – substance use – mental condition ADHD – Foetal Alcohol Spectrum Disorder – Bugmy considerations, childhood deprivation |
| 85. | <b>Nancarrow</b><br><a href="#">[2022] NSWSC 455</a><br>Hamill J           | Unlawful and dangerous – stabbing<br><br>Stabbing - domestic<br><br>Excessive self defence | VG<br>(at murder trial – 25% for offer)  | 7y 6m<br>NPP 4y   |        | Record for dishonesty, drug and driving offences - breached conditional release order   | Stabbed victim twice during confrontation on stairs leading up to living area occupied by offender – victim lived in caravan on property – offender deliberately armed self with knife although no intent to kill or inflict GBH – victim aggressor and angry offender would not purchase drugs for him – offender believed conduct necessary for defence – towards lower end of range<br>Remorse – good prospects of rehabilitation – anxiety disorder – delay due to Covid  |

|     | Case<br>(age if known)   | Type                                      | Plea                                    | Sentence  | Appeal | Record   | Facts   |
|-----|--|---|---|---|--------|--|---|
| 86. | Price<br>(33)  | Stabbing – general                        | VG<br>Manslaughter                      | <u>Indicative</u><br>7y   |        | Nil  | Male victim fatally stabbed during home invasion robbery committed by co-offenders T and N – P provided plan to N suggesting victim worthwhile target due to money and drugs - present when N recruited men by telephone - aware robbery to take place early morning - contemplated possibility of unlawful and dangerous act but did not intend or desire outcome – not present at time of offence – R recruited as lookout – aware N armed and T wore black face covering – limited planning - last minute venture<br>P: female - substance abuse – difficult background: physical and sexual abuse, mental health and PTSD – limited weight remorse – good rehabilitation prospects - special circumstances.<br>R: background of significant violence in Iraq – drug addiction – PTSD – family support – rehabilitation prospects moderately good - special circumstances.<br>N and T convicted of murder. |
|     | Rahim<br>(34)<br><a href="#">[2024] NSWSC 1419</a><br>McNaughton J | Unlawful and dangerous<br><br>Accessorial | s.97(1)<br><br>s.113(2)<br><br>s.112(2) | 4y<br><br>3y<br><br>4y<br>NPP 2y 2m<br><br><u>Aggregate</u><br>8y<br>NPP 4y 6m          |        |  |   |
|     |  |   | VG<br>(25% offer)<br>Manslaughter       | <u>Indicative</u><br>7y 4m  |        | Drugs,<br>property, goods<br>in custody,<br>drive with illicit<br>drugs, breach<br>ADVO. On<br>conditional<br>liberty. |   |
|     |  |   | s.97(1)<br><br>s.113(2)<br><br>s.112(2) | 4y 3m<br><br>3y 2m<br><br>4y 6m<br>NPP 2y 8m<br><br><u>Aggregate</u><br>8y 6m<br>NPP 5y |        |  |   |

|     | Case<br>(age if known)  | Type   | Plea  | Sentence  | Appeal | Record   | Facts   |
|-----|---|--|---|---|--------|--|---|
| 87. | Oliver<br>(21)<br><a href="#">[2024] NSWSC 1571</a><br>lerace J | Stabbing - general<br><br>Accessorial<br><br>Unlawful and<br>dangerous act -<br>stabbing | PG<br>(10%)<br>Manslaughter<br><br>s.195(1A)(b):<br>damage<br>property by<br>fire in<br>company<br><i>[11y]</i> | <u>Indicative:</u><br>9y<br><br>5y 4m<br><br><u>Aggregate:</u><br>11y<br>NPP 7y |        | On CCO at<br>time for offence<br>for knife and<br>stalking<br>offences –<br>breached bail<br>for intimidation<br>and threat to<br>stab sister –<br>subsequent<br>knife and affray<br>offences –<br>prison record<br>for violence | Joint criminal enterprise to assault victim – became<br>aware of knife en route – victim fatally stabbed during<br>altercation in home of victim – offenders set fire to unit<br>before leaving – aggravating factors: home of victim,<br>in company, breach of conditional liberty, degree of<br>planning – burning of body also relevant – burning of<br>unit intentional to cover offence – endangered<br>neighbouring units – significant financial damage<br>Aboriginal male – <i>Bugmy</i> matters taken into account –<br>mental health issues – special circumstances from<br>need for extended supervision and onerous custodial<br>experience |





**Last Updated – Dec 2024**

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