

**Manslaughter**  
**During Fight / Brawl Involving More Than Two People**  
**Stabbing**

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

	Case (age if known)	Type	Plea	Sentence	Appeal	Record	Facts
1.	<b>Azar</b> (1991) 56 A Crim R 414	Fight - stabbing Stabbing - general	VG	MT 4y 6m AT 18m [6m PSC]	AD	Nil	Stabbing during brawl – victim punched offender who obtained knife from nearby house and stabbed him
2.	<b>Cheung</b> (19) NSWCCA 12.3.1998	Provocation Fight - stabbing Stabbing - general	VG	MT 6y AT 2y	AD	nil	Fracas in street involving number of people following earlier argument in restaurant - two men stabbed, one fatally in chest seven times - victim had attacked offender with club-lock during fight - took knife anticipating violence
3.	<b>PN</b> (17) NSWSC Barr J 30.10.1998	Unlawful and dangerous - stabbing Stabbing – general Fight - stabbing Juvenile offender	PG	MT 8y AT 4y		assaults committed in gaol awaiting sentence; on bond at time of offence	Pacific Islander - brother involved in earlier fight with aborigines - 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 Tragic background – mother suicided when offender 2y, then watched sister suicide when 7y – low average intellectual disability
4.	<b>Nikau</b> <a href="#">[1999] NSWCCA 322</a>	Unlawful and dangerous - stabbing Fight - stabbing Stabbing - general	PG	MT 8y AT 4y	AD		Stabbed victim during street fight between Pacific Islanders and Aborigines - affected by drugs and alcohol Youthful offender

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5.	<b>Chami</b> (20) <a href="#">[1999] NSWSC 1268</a> Studdert J	Unlawful and dangerous - stabbing  Fight - stabbing  Stabbing - general	PG	MT 5y 6m AT 3y		on bail for firearm offences	Stabbed stranger in brawl outside nightclub Contribution, drug user, prospects of rehabilitation
6.	<b>Cardoso</b> (22) <a href="#">[2001] NSWSC 775</a> Hulme J  (2003) 137 A Crim R 535 <a href="#">[2003] NSWCCA 15</a>	Provocation  Stabbing – general  Fight - stabbing	VG (at murder trial - 12.5% for offer on appeal)	8y NPP 5y	AA 7y NPP 4y	nil	Stabbed male stranger in head during confrontation in shopping centre - offender left fight and obtained table knife before returning and stabbing victim - high degree of force required - moderate degree of provocation Offender more sensitive because of refugee background - refugee from East Timor - difficult background - remorse - limited English - isolated
7.	<b>Forbes</b> (29) <a href="#">[2004] NSWSC 421</a> Hulme J  (2005) 160 A Crim R 1 <a href="#">[2005] NSWCCA 377</a>	<u>Manslaughter One</u>  Unlawful and dangerous - stabbing  Fight - stabbing  Stabbing – general  Accessory  <u>Manslaughter Two</u>  Excessive self defence  Shooting – general	PG (12%) Mans     VG Mansl (at murder trial - 12% for offer to plea)	12y NPP 9y    12y NPP 8y  <u>Total:</u> 19y NPP 15y	AA 9y NPP 6y 9m   12y NPP 8y  <u>Total:</u> 16y 9m 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 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 Low prospects of rehabilitation

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

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

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12.	<b>E.Jones</b> (female) 63) <a href="#">[2007] NSWSC 1333</a> Buddin J  Co-offenders: AS JONES A JONES SM JONES S JONES	Excessive self defence  Provocation  Fight - stabbing  Stabbing – general  Accessory	VG Mansl  Mal wound	7y NPP 4y 6m  FT 12m  <u>Total</u> 7y 6m NPP 5y		Nil	All offenders part of Romany gypsy family – victims members of another Romany gypsy family related by marriage to offenders – during evening AS Jones and A Jones involved in aggressive altercation with members of victims’ family – both families armed selves and prepared for confrontation – SM Jones, S Jones and E Jones travelled to caravan park for purpose of confrontation – fight broke out in which male victim fatally stabbed and second male victim badly injured – not clear which offender responsible for fatal stabbing – element of self-defence and provocation – offenders convicted of alternative offences at trial for murder and attempt murder Culpability slightly less – wife of S Jones, mother to AS Jones – health problems – isolation from family (most in custody)
13.	<b>Sin</b> (20) <a href="#">[2008] NSWSC 621</a> McClellan CJ at CL	Unlawful and dangerous - stabbing  Fight - stabbing  Stabbing - general	PG (12.5%)	10y 6m 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 Genuine remorse – Cambodian – prospects of rehabilitation
14.	<b>TT</b> (20)  <b>RT</b> (17)  <b>ET</b> (25)  <a href="#">[2009] NSWSC 437</a> Lathan J	Excessive self defence  Juvenile offender  Stabbing – general  Fight - stabbing  Accessory (TT and ET)	PG (15%)	6y 3m NPP 3y 3m  6y 6m NPP 3y 6m  6y NPP 3y		Breached bond for minor offence  Nil  Nil	TT and RT became involved in fight on street with group of men including victim – woke brother and returned to scene armed with sword and knife – victim stabbed by RT – TT and ET charged on basis of participation in affray in knowledge that serious physical injury could result – moderately below mid-range  TT and ET suffered skull fractures from affray – good prospects of rehabilitation – no problem with alcohol and drugs - remorse

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15.	HT (16) <a href="#">[2010] NSWSC 324</a> Hidden J	Excessive self defence  Juvenile offender  Fight – stabbing  Child victim  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
16.	Lynch (24) <a href="#">[2010] NSWSC 952</a> Studdert AJ	Provocation  Fight – stabbing  Stabbing - general	PG (15%)	7y NPP 5y		minor	Stabbed victim lightly to back of neck then fatally to stomach during confrontation between group of people outside house at night – all drinking – used work knife – intent to cause GBH – provocation of pushing offender’s fiancé significant and shortly before stabbing Genuine remorse – good character
17.	Pirini (21) <a href="#">[2011] NSWSC 1395</a> RA Hulme J  Co-offenders: LA ROSA AOULI COSTA MENZIES HAWI	Accessory  Stabbing – general  Assault – general  Fight – assault / stabbing  Unlawful and dangerous – assault / stabbing	PG (20%) Manslaughter  Affray	6y NPP 3y  FT 2y 2m  <u>Total:</u> 6y 6m 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 Left Club - good prospects of rehabilitation – remorse

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

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20.	<b>Costa</b> (29) <a href="#">[2011] NSWSC 1392</a> RA Hulme J  Co-offenders: PIRINI AOULI LA ROSA MENZIES HAWI	Accessory  Stabbing - general  Assault – general  Fight – stabbing / assault  Unlawful and dangerous – assault / stabbing	PG (12.5%) Manslaughter  Affray	6y 7m NPP 3y 4m  FT 2y 4m  Total: 7y 1m NPP 3y 9m		Nil	Secretary of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell’s Angels club killed – met Club members alighting from plane having arranged for attendance of other members at airport - member of rival club pursued and assaulted inside security gate by Comancheros including offender - involved in scuffle but did not punch or kick – present during affray outside security area where manslaughter victim fatally assaulted and stabbed but not physically involved – during common purpose to intimidate contemplated possibility that unlawful and dangerous act would be committed with appreciable risk of serious injury Left Club - good prospects of rehabilitation – remorse – good work ethic – married with two children
21.	<b>Barghachoun</b> (21) <a href="#">[2011] NSWSC 1534</a> Johnson J  Co-offender: AH SMITH [2012]	Accessory  Fight - stabbing  Stabbing – general  Unlawful and dangerous - stabbing	PG (20%)	4y 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 Good prospects of rehabilitation - remorse
22.	<b>AH</b> (16) <a href="#">[2011] NSWSC 1535</a> Johnson J  <a href="#">[2013] NSWCCA 32</a>  Co-offender: BARGHACHOUN SMITH	Accessory  Fight - stabbing  Stabbing – general  Juvenile offender  Unlawful and dangerous - stabbing	PG (20%)	4y NPP 2y	AD	Record – 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 Immaturity

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23.	<b>Smith</b> (18) <a href="#">[2012] NSWSC 38</a> Mathews AJ  Co-offender: BARGHACHOUN AH	Excessive self defence  Fight - stabbing  Stabbing - general	VG (at murder trial – 20% for offer to plead)	6y NPP 3y		Nil	Stabbed male during confrontation between two groups at night – victim called in to support one group and approached offender with bat – stabbed victim once to side of body in self-defence – spontaneous offence – took knife from friend earlier to prevent friend using it Impeccable character – offence out of character – immediate remorse – onerous bail conditions
24.	<b>Menzies</b> (26) <a href="#">[2012] NSWSC 158</a> RA Hulme J  Co-offenders: PIRINI AOULI LA ROSA COSTA HAWI	Accessory  Stabbing - general  Assault – general  Fight – stabbing / assault  Unlawful and dangerous – assault / stabbing	PG (15%) Mansl  VG Affray	7y 2m NPP 3y 8m  3y  <u>Total:</u> 7y 8m NPP 4y 2m		Two incidents of violence in public place	Member of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell's Angels club killed – flew in from Melbourne with other members of club – involved in affray where member of rival club pursued and assaulted inside security gate by Comancheros – present during affray outside security area where manslaughter victim fatally assaulted and stabbed - sentenced for participation in joint criminal enterprise to commit unlawful and dangerous act in circumstances which objectively carried appreciable risk of serious injury being caused Aboriginal - left Club - good prospects of rehabilitation – genuine remorse
25.	<b>Cook</b> (18) <a href="#">[2012] NSWSC 480</a> Garling J	Excessive self defence  Fight - stabbing  Stabbing - general	PG (25%)	7y 6m NPP 4y		BE&S - on bond at time of offence.	Stabbed victim once in chest during affray between two groups of males – victim walking towards offender with broken bottle – both took swing at each other – offender did not bring knife to fight but had picked it up in self-defence – actions of immature teenager Employed – reasonable rehabilitation prospects – little chance of reoffending – general good character

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26.	<b>Hawi</b> (28) <a href="#">[2015] NSWSC 206</a> Hoeben CJ at CL  Co-offenders: PIRINI COSTA LA ROSA MENZIES AOULI	Stabbing – general  Assault - general  Accessory  Fight – stabbing / assault  Unlawful and dangerous – stabbing / assault	PG (17.5%)	6y 2m NPP 3y 6m		Nil significant	President of Comanchero motor cycle club – involved in affray at airport terminal where member of rival Hell’s Angels club killed – member of rival club pursued and assaulted inside security gate by Comancheros - affray outside security area where victim fatally assaulted and stabbed – present but no physical acts during either incident - common purpose to intimidate and contemplated possibility unlawful and dangerous act would be committed with appreciable risk of serious injury – aggravating factor that it took place in public airport Good prospects of rehabilitation – good family support
27.	<b>McGuinness</b> (26) <a href="#">[2016] NSWSC 1806</a> RA Hulme J	Excessive self- defence  Stabbing – general  Fight – stabbing	PG (15%)	8y 6m NPP 6y 4m		Reckless wounding	Became involved in incident between two groups - victim invited offender to fight – punched offender to head - victim initiated and gained upper hand in assault – offender stabbed victim once to neck – did not directly aim to stab in neck but clearly directed knife toward upper body - intention to inflict really serious harm - moderate objective seriousness. Reasonable prospects rehabilitation – ADHD.

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